

PLANNING COMMITTEE: 20th December 2016
DIRECTORATE: Regeneration, Enterprise and Planning
HEAD OF PLANNING: Peter Baguley

APPLICATION REF: N/2016/1009

LOCATION: 44 St Giles Street

DESCRIPTION: Prior Notification for a change of use of existing retail shop (Use Class A1) to restaurant/cafe (Use Class A3)
WARD: Castle Ward

APPLICANT: Cahit Menekse
AGENT: Anva Ltd

REFERRED BY: Head of Planning
REASON: Council owned land

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

1.1 REFUSAL for the following reason:

The proposed development would exacerbate the level of non-retail uses within an allocated secondary frontage to the detriment of the viability and vitality of the town centre. The proposal therefore fails to comply with the requirements of the National Planning Policy Framework and Policies 12 and 13 of the Northampton Central Area Action Plan.

2. THE PROPOSAL

2.1 The applicant seeks permission to change the use of the property from a shop to a restaurant. This would operate in conjunction with the restaurant that already occupies part of the ground floor of the building. No external alterations are proposed.

3. SITE DESCRIPTION

3.1 The application site consists of a large unit occupying a prominent position within St Giles Street. This road is allocated as a secondary retailing frontage within the Central Area Action Plan and as a consequence, establishes minimum levels of retailing that should be retained. The surrounding land uses are a combination of retailing and other commercial facilities; however, the upper floors of the application site are in use as flats.

4. PLANNING HISTORY

- 4.1 N/2011/0928 – Change of use of ground floor to residential and shop – Approved.
N/2016/0791 – Change of Use of Ground Floor Shop (Use Class A1) to Restaurant (Use Class A3) to be incorporated into neighbouring restaurant premises – Refused.
- 4.2 The most recent planning application N/2016/0791 was considered by the Planning Committee earlier this year, where it was resolved to refuse the application as it was considered that the development would result in an unacceptable loss of retailing in this prominent frontage.

5. PLANNING POLICY

5.1 Statutory Duty

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014) and Northampton Central Area Action Plan (2013).

- 5.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities when considering development to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

5.3 National Policies

The National Planning Policy Framework (NPPF) sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:

- 5.4 Paragraph 23 is of particular relevance. This recognises the importance of town centres as the heart of a community and as a consequence, there should be a significant proportion of retailing (meeting a diverse set of demands) available. In achieving this, there should be a variety of retail units (in terms of sites) to meet this requirement.
- 5.5 Paragraph 17 states that planning seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings and to conserve heritage assets in a manner appropriate to their significance. Paragraph 129 also requires that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal.

5.6 West Northamptonshire Joint Core Strategy (2014)

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

- 5.7 Policy S10 (Sustainable Development Principles) requires that developments be of a good design and the occupiers of neighbouring properties are not unduly impacted through noise.
- 5.8 Policy BN5 also requires that heritage assets are conserved in manner that it consistent with their significance.

5.9 **Northampton Central Area Action Plan 2013**

The Central Area Action Plan (CAAP) provides specific planning policy and guidance for the town centre and adjoining areas where significant regeneration and investment is proposed in the period up to 2026 and is in conformity with the objectives of the NPPF. Relevant policies include:

- 5.10 Policy 12 of the CAAP identifies the appeal site as falling within the Primary Shopping Area and as a consequence, there is a policy presumption in retaining retailing within locations such as this in order to support the town centre's viability and vitality. This requirement is expanded within Policy 13, which states that that in primary retail frontages; the level of retailing should not significantly fall below 60%.
- 5.11 Policy 1 (Promoting Design Excellence) requires that developments be of a good design and makes efficient use of the land, whilst providing a wider range of choice for users.

6. **CONSULTATIONS/REPRESENTATIONS**

- 6.1 **Conservation (NBC)** – No objections.
- 6.2 **Environmental Health (NBC)** – No objections.
- 6.3 **Highway Authority (NCC)** – No objections.

7. **APPRAISAL**

- 7.1 Under the provisions of the Town and Country Planning (General Permitted Development) Order 2015, it is possible to apply for the prior approval of the change of use of a retail unit to a restaurant/café. In essence, this means that such works can take place, unless there is an adverse impact on a specified list of material considerations. The matters that can be considered are noise, the operating hours of the business, cooking odours, refuse storage, transport and the loss of retail facilities.
- 7.2 Given that the proposed use would operate in tandem with the adjacent restaurant (and kitchen facilities), it is considered that the development would not result in increased odours within the locality, which might otherwise be detrimental to amenity. The fact that the building is already in use for commercial purposes, means that refuse storage is already provided at the building. In addition, it is noted that the previous planning application was not refused due to a lack of refuse storage.
- 7.3 The proposed development is within a town centre location, in close proximity to a number of similar uses and those that operate in late night periods, means that it is considered that there would be no significant adverse impacts on the amenities of neighbouring properties in terms of matters such as noise and the opening hours of the business.
- 7.4 The town centre location also means that there would not be a significant adverse impact on the highway system, due to the sustainable nature of the location.
- 7.5 The application site is located within a secondary retail frontage. The CAAP requires that 60% of the frontage should be maintained for retailing purposes in order to allow the frontage to fulfil its function. Should this development go ahead, then the level of retailing within the frontage, which runs from 34-72 St Giles Street, would fall to 47%. It is doubtful as a result that the street would be able to fulfil its role as a secondary retail frontage. The proposal would have a detrimental impact upon the viability and vitality of the location. This application is similar in nature to the most recent refusal of planning permission (as referred to paragraph 4.2 above), and given the

unchanged policy context and site circumstances, it is considered that the loss of this retail unit remains unacceptable.

- 7.6 This planning policy has been tested upon appeals at 7 The Parade (Market Square) in November 2011 and 6-7 Drapery in February 2016. In both instances, the Inspector considered that the Council's approach to assessing planning applications of this type when they breached the relevant policy of the CAAP was appropriate and in both cases, the appeals were dismissed. Given the relevant nature of these appeals and the similarities of development proposed, it is considered that these carry significant weight in establishing the harm arising from the loss of a further retail unit.

8. CONCLUSION

- 8.1 Whilst it is recognised that the development would result in the bringing back into use of a vacant unit and that this use would not have a significant adverse impact upon the amenities of neighbouring properties, this does not outweigh the harm caused by the loss of a further retail unit, within this prominent frontage and the significant adverse impact that it would have on the viability and vitality of the location.

9. BACKGROUND PAPERS

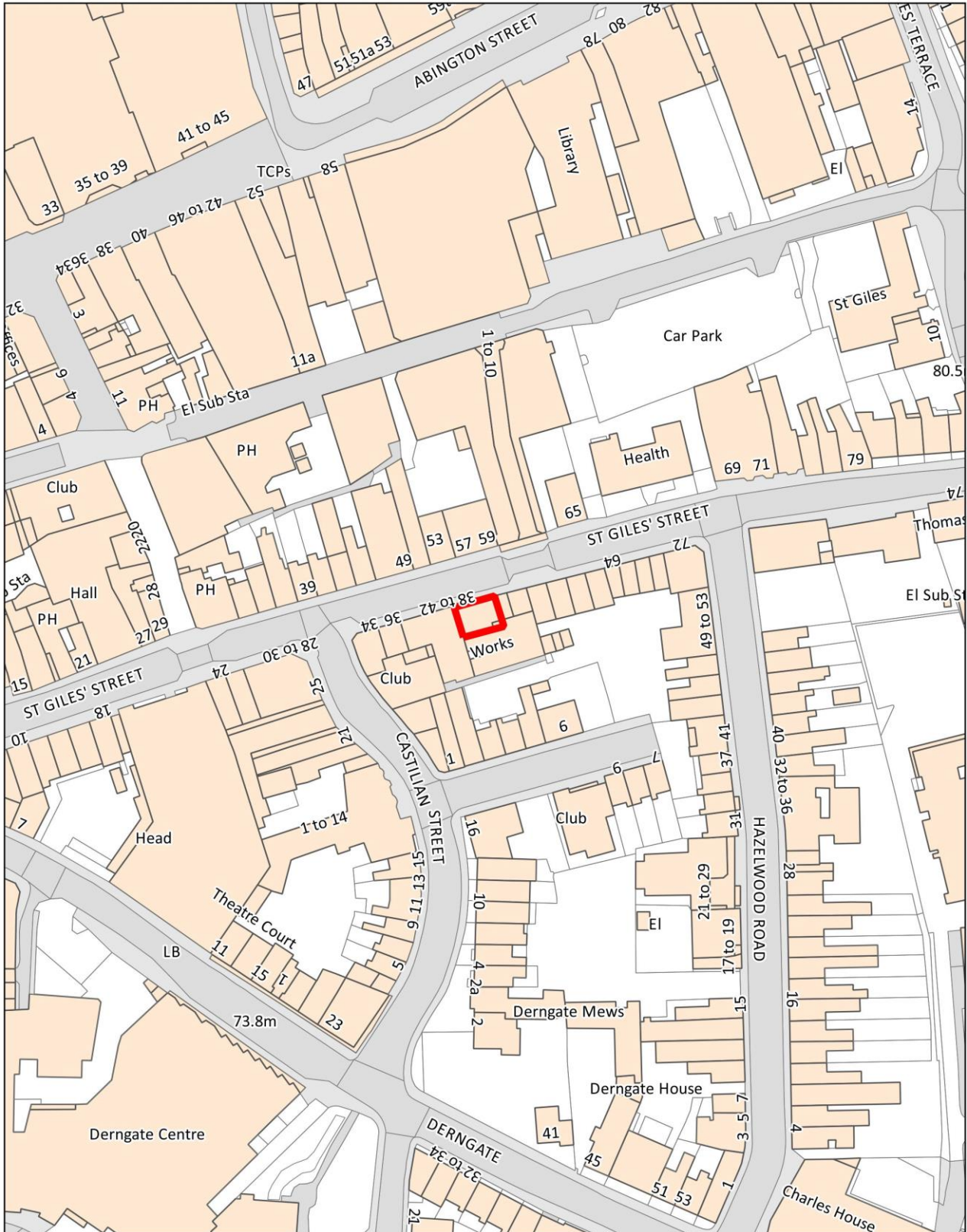
- 9.1 None

10. LEGAL IMPLICATIONS

- 10.1 None

11. SUMMARY AND LINKS TO CORPORATE PLAN

- 11.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



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Date: 07-12-2016

Scale: 1:1,250

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