

ITEM

Application Reference	DC/079402
Location:	1 Bramhall Lane South Bramhall Stockport SK7 1AL
PROPOSAL:	Minor Material Amendment to planning permission DC/072502 to facilitate the retention of the shopfront as constructed.
Type Of Application:	Minor Material Amendment
Registration Date:	19.01.2021
Expiry Date:	20210316
Case Officer:	Jane Chase
Applicant:	TORQUOISE
Agent:	Gonshaw Associates

DELEGATION/COMMITTEE STATUS

Called up by Cllr Bagnall

DESCRIPTION OF DEVELOPMENT

As approved under DC072502, the original shopfront to the frontages onto BLS and ALE was to be retained and the private forecourt beyond it enclosed by a glazed extension thus creating 2 dining/retail floor spaces. The double width doors in the existing shopfront to the ALE frontage were to be retained however the double width doors to the BLS frontage were to be replaced with a single width door. The new shopfront enclosing the private forecourt to the BLS frontage included 1.8m wide double doors positioned immediately adjacent to the boundary with 3-5 BLS.

As constructed however the original shopfront has been removed in its entirety such that rather than forming 2 dining/retail floor spaces, the premises is one large unit. The double doors proposed to the BLS frontage have been replaced with a single door 0.9m wide positioned away from the boundary with 3-5 BLS by circa 2.7m. The single door is now positioned slightly higher above the external ground levels such that there is more of a step into the premises than approved.

It is understood that a ramp is placed outside of the door each day to improve access into the unit. This does not require planning permission and therefore does not form part of this application. Being positioned on the public highway the acceptability or otherwise of this feature is for the Highway Authority to consider.

This application therefore seeks a S73 minor material amendment to DC072502 to allow for the retention of the shopfront as constructed.

The approved and proposed plans are appended to this agenda.

SITE AND SURROUNDINGS

The application site is located at the junction of Bramhall Lane South and Ack Lane East within the Bramhall District Centre and comprises a large unit in use as a

delicatessen and café (approved by DC072502). The site is flanked by commercial uses to either side and opposite and forms part of a larger 2 storey development which comprises commercial uses on the ground floor and offices above.

POLICY BACKGROUND

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

The Development Plan includes-

- Policies set out in the Stockport Unitary Development Plan Review adopted 31st May 2006 which have been saved by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004; &
- Policies set out in the Stockport Local Development Framework Core Strategy Development Plan Document adopted 17th March 2011.

Saved policies of the SUDP Review

PSD2.2 Service Uses in the Town Centre, District and Large Local Centres

SE1.2 Shopfronts

MW1.5 Control of Waste from Development

LDF Core Strategy/Development Management policies

CS6 Safeguarding and Strengthening the Service Centre Hierarchy

AS-1 The Vitality and Viability of Stockport’s Service Centres

CS8 Safeguarding and Improving the Environment

SIE-1 Quality Places

SIE-3 Protecting, Safeguarding and Enhancing the Environment

CS9 Transport & Development

T-1 Transport & Development

T-2 Parking in Developments

T-3 Safety & Capacity on the Highway Network

National Planning Policy Framework

A Revised National Planning Policy Framework (NPPF) issued by the Secretary of State for Housing, Communities and Local Government (MHCLG) on 19th February 2019 replaced the previous NPPF (originally issued 2012 & revised 2018). The NPPF has not altered the fundamental legal requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 that decisions must be made in accordance with the Development Plan unless material considerations (such as the NPPF) indicate otherwise.

The NPPF representing the governments up-to-date planning policy which should be taken into account in dealing with applications focuses on achieving a lasting housing reform, facilitating the delivery of a greater number of homes, ensuring that we get planning for the right homes built in the right places of the right quality at the same time as protecting our environment. If decision takers choose not to follow the NPPF, then clear and convincing reasons for doing so are needed.

N.B. In respect of decision-taking the revised NPPF constitutes a “material consideration”.

Para.1 *“The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied”.*

Para.2 *“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise”.*

Para.7 *“The purpose of the planning system is to contribute to the achievement of sustainable development”.*

Para.8 *“Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

- a) an economic objective*
- b) a social objective*
- c) an environmental objective”*

Para.11 *“Plans and decisions should apply a presumption in favour of sustainable development.*

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

Para.12 *“..... Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed”.*

Para.38 *“Local planning authorities should approach decisions on proposed development in a positive and creative way..... Decision-makers at every level should seek to approve applications for sustainable development where possible”.*

Para.47 *“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”.*

Para.124 *“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*

Para.130 *“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development”.*

Para.153 states *“In determining planning applications, local planning authorities should expect new development to:*

a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption”.

Para.213 *“existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.*

Planning Practice Guidance

The Planning Practice Guidance (NPPG) is a web-based resource which brings together planning guidance on various topics into one place (launched in March 2014) and coincided with the cancelling of the majority of Government Circulars which had previously given guidance on many aspects of planning.

RELEVANT PLANNING HISTORY

DC072502 - Change of use from retail shop (A1) to a mixed use comprising a retail shop and cafe (A1/A3). Use of private forecourt for placing of tables and chairs along the Bramhall Lane South and Ack Lane East frontages and the enclosure of those private forecourts with glazed wall screen. Erection of extraction equipment to the rear of the building. Approved May 2019

NEIGHBOUR'S VIEWS

1 letter has been received neither objecting nor supporting the development but making the following comments:

- The hours of operation should remain as approved.
- The moveable glazing to the south east elevation would imply that seating will be placed on the public highway. In the interests of safety this must not be allowed.

ANALYSIS

Noting that the revisions sought relate only to the shopfront, the main issues for consideration are the impact of the shopfront upon the visual amenities of the locality and the accessibility of the use in terms of pedestrian access. All other aspects of the development approved by DC072502 remain as approved.

Policy SE1.2 confirms that permission for new shopfronts will be permitted provided that the design and materials are sympathetic to the building and properties adjacent. The accompanying SPD reiterates this advice. The Core Strategy through the application of policies CS8 and SIE1 requires development to be designed to a high standard and which makes a positive contribution to an attractive environment.

In design terms, the revisions to the approved shopfront are considered to be in keeping with the character of the locality where there are many examples of shopfronts of differing age and design. Noting that the shopfront in existence prior to the approval of DC072502 was entirely blocked with poster displays, that as constructed by opening up the appearance of this commercial unit enhances the appearance of this prominent corner site. This aspect of the application is welcome in terms of the impact of the development upon visual amenity and the function of the District Centre. In this respect the proposal complies with policies SE1.2, CS8 and SIE1.

In terms of accessibility, policy SE1.2 does not make any reference to the need for or require new shopfronts to include for disabled access but rather concentrates on the design and the need to be in keeping with the character of the area. Policy CS8 however confirms that development which makes a positive contribution to an accessible built environment will be given positive consideration. This is reflected in policy SIE1 which confirms that development designed to the highest contemporary standard will be given positive consideration; in this respect specific account should be had of the provision, maintenance and enhancement (where suitable) of satisfactory levels of access.

As such, there are no policies in the development plan that require development to include means of access for those with limited mobility; such access is encouraged and welcomed (by policies CS8 and SIE1) but it is not essential or mandatory. Planning permission cannot therefore be refused for a shopfront simply because it fails to include for disabled access.

It is noted that the inclusion of double width doors in the shopfront approved under DC072502 together with the near level access from the adjacent pavement provided for easy access into the unit to those with small children in buggies, wheelchair users or those with restricted mobility. That aside, it is however noted that DC072502 also approved the removal of the double width doors on the internal retained shopfront and their replacement with a single width door. That being the case, the level of access afforded by the double doors in the new shopfront only extended to the new enclosed floorspace beyond the existing shopfront. Even then, given the limited depth of the enclosed private forecourt beyond the existing retained shopfront, internal access for those with small children in buggies, wheelchair users and those with mobility issues would have been restricted due to the presence of chairs, tables and limited aisle widths.

The construction of the new shopfront enclosing the private forecourt with a single width door at a slightly raised level above the adjacent pavement reduces the ease of access into the unit for those with small children in buggies,

wheelchair users or those with restricted mobility. This is a retrograde step. It is however noted that the removal of the internal, original retained shopfront has resulted in the entire floor area of this unit being accessible and open internally which may assist movement between chairs and tables inside the unit. This is welcome.

Notwithstanding the comparison between the approved and as built development, it remains the case that there is no policy requirement for disabled access to be incorporated into a new shopfront. It is encouraged but is not mandatory. Had the approved development proposed single width doorways (as has been constructed) then it would not have been possible to refuse planning permission for this reason. Equally it is not possible to now refuse permission for the shopfront as constructed as there is no policy basis for this provision. Furthermore, it is believed that the Council in its capacity as Planning Authority refused never planning permission for any other shopfront due to the lack of disabled access.

In response to the comments made by a neighbour, the hours of operation will remain as originally approved. The notation on the plans that some elements of the shopfront will be removable are noted however this would not allow for the use of the public highway for seating (nor is such proposed by this application).

For the reasons set out above, the proposed revision to DC072502 is considered acceptable and compliant with policies SE1.2, CS8 and SIE1.

RECOMMENDATION Grant