

APPLICATION REFERRED FROM THE WEEKLY LIST**WEEKLY LIST NO. 1413 – 9 FEBRUARY 2018****1701221/FUL****42-46 EASTWOOD ROAD, RAYLEIGH****CHANGE OF USE FROM SHOP (A1) TO RESTAURANT (A3)
AND CREATION OF SELF-CONTAINED FIRST FLOOR
FLAT AND CHANGES TO REAR ELEVATION****1 DETAILS OF REFERRAL**

- 1.1 This item was referred from Weekly List No. 1413 requiring notification to the Assistant Director, Planning & Regeneration Services by 1.00 pm on Wednesday, 14 February 2018 with any applications being referred to this meeting of the Committee. Cllr R R Dray referred this item on the following grounds:-

Notwithstanding the previously approved similar out-of-date application, since then planning application rules have changed, the current Local Development Framework having been adopted in December 2014.

There would be a lack of parking with customers seeking to park in local roads and forecourts and not in the public car parks in Websters Way and Castle Road. There would appear to be no parking provision for the occupant/s of the proposed flat. I would refer to page 112 of the Rochford District Council Core Strategy. Daws Heath Road and Queens Road have 24-hour parking restrictions and the proposed application is very close to the very busy junction formed by Daws Heath Road, Queens Road, and Eastwood Road and the retail units opposite. There would be no adequate provision for the parking and turning of service vehicles on and off the site.

The additional activity from this application would result in unnecessary noise and nuisance for the current residents, which includes a retirement complex and a children's nursery. The proposed application appears to be in contradiction to the amenity and privacy which should be enjoyed by those living nearby and presents a possible danger due to visitors attempting to enter or reverse from the property.

There appears to be no adequate provision for waste management for the resident and the proposed restaurant, including the use of external bins and a bin store.

1.2 The item that was referred is attached at appendix 1 as it appeared in the Weekly List.

1.3 A plan showing the application site is attached at appendix 2.

2 RECOMMENDATION

2.1 It is proposed that the Committee **RESOLVES**

To determine the application, having considered all the evidence.

If you would like this report in large print, Braille or another language please contact 01702 318111.

Appendix 1

Application No :	17/01221/FUL	Zoning : Town Centres
Case Officer	Mr Robert Davis	
Parish :	Rayleigh Town Council	
Ward :	Wheatley	
Location :	42-46 Eastwood Road Rayleigh	
Proposal :	Change use from shop (A1) to restaurant (A3) and creation of self-contained first floor flat and changes to rear elevation	

SITE AND PROPOSAL

1. Planning permission is sought for the change in use of a retail premises, presently occupied by a furniture retailer, to provide a Class A3 establishment on the ground floor with a self contained flat on the first floor. The premises is located within the Rayleigh Town Centre boundary and included within the Secondary Shopping Frontage Area. It is also located within Character Area C of the Rayleigh Centre Area Action Plan.
2. The premises is located between the Rainbow Children's day nursery and is attached to a Thermoshield Windows Ltd showroom. The rear part of the site shares a side boundary with two residential dwellings on Daws Heath Road (Nos. 2 and 4). On the opposite side of the Eastwood Road is a parade of retail units with the King George's retirement complex adjacent.
3. The premises has two floors and a gross internal floorspace of 271m². The proposed restaurant would provide 60 covers plus 20 covers within function rooms. External alterations would be limited to part infilling a rear window and installing a door. Ductwork associated with a mechanical extraction system would also be installed. Details of this can be controlled by planning condition.
4. **PLANNING HISTORY**
 - EEC/RAY/79/59 - Extension to form showroom. REFUSED
 - EEC/RAY/204/59 - Alterations and new shop front. REFUSED
 - ROC/362/88 - Change use of part of premises to sale and display of kitchen/bedroom fitments, store and living accommodation. APPROVED
 - 90/00288/FUL - New shopfront, change of use of part first floor to beauty salon, part ground floor to A1 retail and forecourt parking. APPROVED
 - 06/00056/COU - Change of Use of Retail Shop to Restaurant (Class A3)
Opening Times: 12 Noon to 2.00pm Monday to Sunday. 5.30pm to

- 10.30pm Monday to Thursday 5.30pm to 11.00pm Friday and Saturday.
Creation of Self Contained First Floor Flat. APPROVED
- 13/00252/FUL - Change of Use of 42-46 Eastwood Road To Day Care Nursery With Single Storey Infill Extension And First Floor Covered Walkway Extension Between no 40 and no 42. REFUSED
 - 13/00650/FUL - Change of Use of 42-46 Eastwood Road To Day Care Nursery With Single Storey Infill Extension And First Floor Covered Walkway Extension Between nos. 40 and no 42. APPROVED
 - 16/00618/COU Change Of Use From A1 (Shop) to A3/A4 Fine dining and drinking establishment. REFUSED.
 - This application was refused at the January 2017 Development Committee meeting for the following reason:
 - The proposal, by way of the extent to which the hours of opening proposed would give rise to noise, nuisance and disturbance into late evening and over night from patrons, would prove detrimental to the amenity of nearby residential occupiers beyond what is reasonably expected in a residential area.

MATERIAL CONSIDERATIONS

5. The proposal would include the change in use of the existing ground and first floor retail premises at no.42 - 46 to a restaurant with a self contained flat on the first floor. The application is identical to the lapsed planning consent 06/00056/COU.
6. The site is located within the Secondary Shopping Frontage Area of Rayleigh. Secondary frontages play a key role in supporting the town centre in providing uses/services that if located within the primary zones would be damaging to the vibrancy and health of the town centre. Restaurant uses are such uses and would add to the range of services that are available within the town centre making it a more attractive/viable place to visit, which would help to support the local economy.
7. Policy 3 of the Rayleigh Centre Area Action Plan states that a proposed change of use for a non-retail purpose will be permitted where it would;
 1. Not have a detrimental impact on, or undermine, the predominance of A1 uses within the centre, both within the centre as a whole and within the primary shopping frontage;
 2. Not create a cluster of non-A1 uses within the same use class in a locality that undermines the retail character of the centre;
 3. Entail the provision of a non-A1 use which is considered to positively contribute to the overall offer and encourage people into the centre. These may take the form of those non-A1 uses set out in criterion 3 of Policy 1, including A2-5, leisure, cultural and community uses. The Council will

encourage such uses outside of the primary shopping frontage in particular; and

4. Not have a negative effect on the amenity and character of Rayleigh or have adverse consequences for Rayleigh centre.
8. It is also important to consider the planning history at this site . In 2006 planning permission was granted to change the use of no.42-46 to a restaurant (Ref: 06/00056/COU). Within the officer report for this application, in accepting that a restaurant use would reduce the retail percentage below the recommended amount of the previous Local Plan it stated that 'given the location on the periphery of this secondary zone that the loss of retail floorspace is unlikely to have a material impact upon the footfall for this part of the centre and consequently unlikely to have a material impact upon the viability of the town centre as a whole.' This planning consent is a Material Consideration in the determination of this latest application. It is not considered that there are any policy revisions since this 2006 lapsed permission which would count against a further consent for a change in use to a restaurant. The more recent approval, reference 13/00650/FUL, also allowed for a change to a non retail use - Class D1. Given this, and the present use of surrounding units, it is considered that the proposal would be compliant with parts 1 and 2 of Policy 3.
9. Part 3 of the Action Plan encourages the use of A2-A5 uses outside of the primary area and the proposal would therefore be compliant with this policy.
10. Part 4 of the Action Plan requires proposed development not to have an adverse impact on the amenity and character of Rayleigh or have an adverse consequence for Rayleigh centre. It is not considered that the proposal would have an adverse impact on Rayleigh centre. The siting of a restaurant in the area has the potential for an increase in night time activity but in the context of the main road location and surrounding development any additional impact on local amenity would likely be minimal in terms of noise and disturbance to residents of nearby properties. The establishment would also require a license from Rochford District Council if alcohol will be served which would allow the authority to have a degree of control over such matters in the event of any future disturbance to local amenity. The proposed opening hours would be 12:00 to 14:00 Monday to Sunday. 17:30 to 22.30 Monday to Thursday and 17:30 to 23:00 Friday to Saturday and these hours can be controlled by a planning condition. It is noted that the previous refusal related to a restaurant/bar operation that was proposed to remain open until 2am.
11. The site plan indicates that the forecourt would provide for a total of seven parking spaces. Although no comments from the County Highway Authority have been received for this application, members are advised that in the previous consultation for 16/00618/COU Essex County Council, as the Highways Authority, had no objection to the parking arrangements citing that the immediate local highway network is protected by parking restrictions to

discourage undesirable parking habits. It is also noted that public car parking facilities are available within a short walking distance of the site with 148 spaces available at Castle Road and 347 spaces at Websters Way.

12. The proposal also includes a first floor flat. Policy DM35 - Upper Floor Locations in Town Centres permits the use of the upper floor to shops and other commercial premises in town centres for residential purposes. There is an external staircase accessible from the front of the site by a side passageway thus allowing the accommodation to be self contained. The flat would have a gross internal floorspace of 65m² thus exceeding the Technical Housing Standards minimum for a one bedroom flat (2 bedspaces) of 50m². It is not known if the minimum floor to ceiling height of 2.3m for at least 75% of the floor area is achieved however as the proposal involves the conversion of an existing building this is not considered objectionable. The site is adjacent to, but outside of, the Rayleigh Air Quality Management Area thus residential conversion would not be inappropriate in terms of air quality.
13. The neighbourhood consultation has resulted in a number of objections. Although these concerns are considered reasonable it is not considered that there are sufficient grounds for a refusal of planning permission given the parking restrictions in the area, the provision of local car parks in close proximity and the town centre location where reasonable activity associated with a restaurant would not be objectionable in principal and would be compliant with the adopted Action Plan.

Representations:

14. RAYLEIGH TOWN COUNCIL: The Town Council objects to this application because the proposal for internal circulation within the site are unacceptable and will create conflict between pedestrian, cyclist and vehicular movement, thereby creating a safety hazard. There are issues with access regarding delivery vehicles and access for both the flat and the restaurant. There are inadequate parking spaces for customers, staff and the upstairs flat. It is detrimental to the amenities of the neighbouring properties regarding outside space (i.e. noise and cigarette smoke) and there is no designated fire escape for the upstairs flat.
15. NEIGHBOURS - 22 Representations have been received from the following addresses:

Bedford Close: 12
Beehive Lane: 16
Claremont Crescent: 55
Daws Heath Road: 4, 9, 12, 19
Eastwood Road: 38-40 (Rainbow Nursery)
Harvard Court: 15
Highmead: 12

Highmead Court: 8
Kelso Close: 43 King Georges Court: 26, 38, x2 not stated
Love Lane: 48
Shannon Avenue: 9
The Approach: 44
Victoria Avenue: 105
Whitehouse Court: 7
One address not stated

16. Which in the main make the following comments and objections:
- Proximity to retirement dwellings containing elderly people
 - Impact on children's nursery
 - Children need quiet environment
 - Risk to health and safety of children
 - Safeguarding concerns re use of flat
 - Not suitable in residential area
 - Opening hours unsuitable
 - Noise nuisance in evening
 - Parking limited will spill onto neighbouring roads
 - Vehicle access/egress will present problems at the very busy roundabout
 - Rayleigh traffic is a nightmare and system cannot cope
 - Smell from vents
 - Too many restaurants and takeaways spilling out from High Street
 - Noise and smoking outside property/in garden
 - Drunk and anti-social people
 - Licensing should be restricted to 11pm
 - Applicant and Council should ensure all litter/detritus removed each day from area
 - The current application mirrors the one granted back in 2006
 - No information about potential noise generation
 - No details about waste disposal

APPROVE

- 1 SC4B Time Limits Full - Standard
- 2 The use shall only operate during the hours of 12:00 to 14:00 Monday to Sunday. 17:30 to 22.30 Monday to Thursday and 17:30 to 23:00 Friday to Saturday unless otherwise agreed in writing by the Local Planning Authority.
- 3 A mechanical extraction system shall be provided to the kitchen area in accordance with Defra's 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' (January 2005). All details shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed works shall be fully implemented prior to the commencement of any

use hereby permitted and compliance with Defra's guidance shall continue while the premises are in use for the permitted purpose.

PRIOR TO COMMENCEMENT JUSTIFICATION:

Given the potential for cooking odours and the proximity of other premises a suitable extraction system would be required to ensure local amenity is maintained.

- 4 This permission conveys no approval for use of the rear garden or forecourt in direct connection with the dining/bar area.

Relevant Development Plan Policies and Proposals:

Core Strategy - CP1

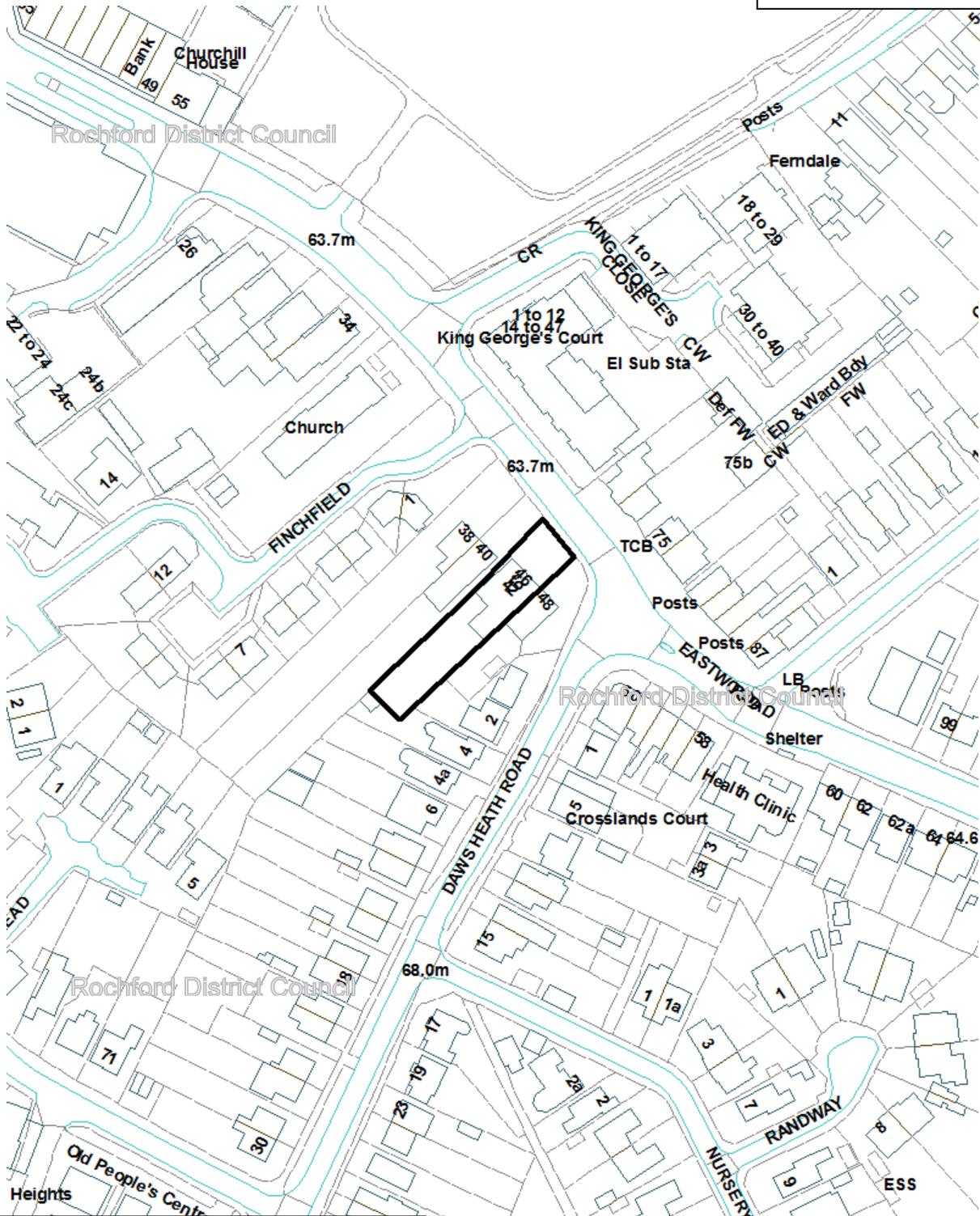
Development Management Plan - DM1, DM35

Rayleigh Town Centre Area Action Plan

The local Ward Member(s) for the above application are Cllr J D Griffin Cllr J C Burton Cllr R R Dray

Appendix 2

17/01221/FUL



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