

APPLICATION REFERRED FROM THE WEEKLY LIST

WEEKLY LIST NO. 1434 – 20 JULY 2018

16/00957/FUL

125 SOUTHEND ROAD, ROCHFORD

RETROSPECTIVE APPLICATION TO CHANGE USE OF PREMISES FROM SHOP TO TATTOO PARLOUR

1 DETAILS OF REFERRAL

- 1.1 This item was referred from Weekly List No. 1434 requiring notification to the Assistant Director, Planning and Regeneration Services by 1.00 pm on Wednesday, 25 July 2018 with any applications being referred to this meeting of the Committee.
- 1.2 Cllr M J Steptoe referred this item on the grounds that the application site has been in use for some time as a tattoo parlour and there have been no objections received from the Parish Council, County Highways or local residents. Parking was not an issue when the application site operated as an IT shop. There is parking in the layby and roads to the side. There are a number of shops/restaurants along this section of road. Issues relating to the W.C. and kitchen could be dealt with by way of condition. It would be preferable for there to be a tattoo parlour on site rather than an empty shop, as is the case with the shop at the end of the parade.
- 1.3 The item that was referred is attached at appendix 1 as it appeared in the Weekly List.
- 1.4 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 :	16/00957/FUL	Zoning : Residential
Case Officer	Mr Arwel Evans	
Parish :	Rochford Parish Council	
Ward :	Roche South	
Location :	125 Southend Road Rochford Essex	
Proposal :	Retrospective application to change use of premises from shop to Tattoo Parlour	

SITE AND PROPOSAL

1. The application seeks to regularise the existing use of ground floor space which is used as a Tattoo Parlour. The application is required on the basis of the material change of use of this floor space from its approved A1 (shop) use and last used as a computer shop to the current use which is considered to fall under a 'Sui Generis' use under the provisions of The Town and Country Planning (Use Classes) Order 1987.
2. The site constitutes ground floor space within a building which is located in a parade of shops fronting Southend Road at a location just South of the Ann Boleyn Public House and due east of the runway at Southend Airport.
3. The submitted information indicates that the studio is now open plan with no partition walls, other than those provided to contain a kitchenette and a WC. The main useable area is indicated by the floor plan to constitute an area of approximately 54 square metres.
4. No parking provision is indicated by the submitted planning application to be provided in connection with the use.

Planning History

00/00107/COU Change of Use from A1 to Residential REFCOU - Refuse Planning Permission (COU) Refused 27/04/20

Material Planning Considerations

Principle of development

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a statutory responsibility on planning authorities to determine planning applications in accordance with the provisions of the development plan unless material planning considerations indicate otherwise.

6. Policy DM 36 to the Council's Development Management Plan seeks to ensure that retail premises in neighbourhood shops are retained.
7. The criteria within planning policy indicates that such change of use will be permitted providing that it can be demonstrated that the loss of the retail use is justified because the unit is vacant or that an A1 retail use is not financially viable. The policy states that in either case the applicant should be able to demonstrate that all reasonable attempts have been made to sell or let the property for retail use, but without success.
8. The criteria also indicates that the development should not result in the removal of any independent means of accessing the upper floors of the premises or otherwise prevent an effective use being made of the upper floors.
9. On the basis of planning policy there is clearly a presumption for the retention of retail uses within ground floor premises within neighbourhood shopping areas outside town centres. The use of such premises for non- retail uses requires clear justification by way of evidence demonstrating that genuine efforts have made and over what period of time to exhaust the possibility of the retention of the existing use either by way of letting or sale. The onus is clearly on the applicant to demonstrate that this is the case as opposed to the Local Planning Authority drawing assumptions and conclusions based on a lack of material facts to verify the case put forward by the applicant. No information has been submitted which supports the case for the continuance of the unauthorised use as a non-retail unit.
10. Although criteria (ii) of policy DM36 of the Development Management Plan does take into account alternative uses which would serve the day to day needs of local residents whilst criteria (iii) takes into account the impacts of such uses in terms of impacts upon the quality of life of residents living in the immediate vicinity by way of noise, on street parking, disturbance, cooking smells, and litter it is considered that the principle of the use itself has not been established and justified in the light of criteria (i) - the loss of the retail unit - of policy DM36.
11. On this basis despite the use which is taking place and which is unauthorised, it is concluded that the loss of the retail use at this time is not justified by the planning application and as such the development in terms of its change of use element would conflict with part (i) to Policy DM 36. No case has been presented by the applicant which justifies the change of use in the light of these guiding principles and criteria which is considered to be a key requirement which has not been met in this instance.
12. Notwithstanding this principle issue, it is not considered that the use in terms of its outward material effects in particular its impact on neighbouring uses would have any detrimental impacts. There are no noise or smells associated with the use such that the use is considered to give rise to unacceptable impacts in this respect.

Parking and Highways

13. It is reported in connection with previous planning applications relating to 109A Southend Road that there is a stated issue when delivery vehicles occupy the parking space which fronts the parade of shops which displaces other which then have to rely on parking up one of the side streets.
14. The fact that there is a stated and perceived parking and overcrowding issue in this vicinity is a relevant issue. The key material planning consideration is that of whether the existing unauthorised use exacerbates an existing situation to a degree which is demonstrably harmful such that there would be sufficient reason to refuse the planning application on highway safety grounds. Delivery of goods to a Tattoo shop is considered to be at a much lower scale than the delivery of perishable food products to neighbouring hot food outlets. It is not considered that the use generates additional delivery traffic such that it is demonstrated to be detrimental in highway safety terms.
15. In assessing the adequacy of the current car parking provision in connection with this use, regard has to be given to the requirement of the parking standards in terms of whether additional car parking provision is required to serve this use. The purpose of the guidance is to provide parameters that developments should seek to meet in connection with development in order to ensure that the level of parking provision is adequate and that the development can be demonstrated to be acceptable thus mitigating the incidence of on street parking on the adjacent highway network. Section 2.2.4 of the Parking Standards indicates that consideration must be given to 'parking' and its relationship to the built environment which it serves. The form and function of the parking can have a determining influence on the successfulness of the development design concept.
16. There is no specific reference to the provision to serve Tattoo Parlours in the Parking Standards Design and Good Practice Guidance September 2009 which covers a range of Sui Generis uses. Comparing the use to those covered under Sui Generis which are considered similar uses by nature of their character and use it is considered that the car parking space provision would equate to 1 space per full time staff equivalent. There is no specific allocated parking in connection with the current use which is not an arrangement which is any different to those associated with other uses within the parade. It is not considered therefore that the unauthorised use has exacerbated the existing situation or would indeed make matters demonstrably worse from a highway safety perspective if it were to continue.

Representations:

17. None.

REFUSE

- 1 The unauthorised use if accepted would result in the loss of an approved A1 retail use within a neighbourhood shopping area which planning policy DM36 of the Development Management Plan indicates should be retained unless the loss of the retail unit is justified on the basis that it is either vacant or its continued A1 retail use is not financially viable. The application has not demonstrated that all reasonable attempts have been made to sell or let the premises for retail use, but without success before the unauthorised use commenced. It is considered that the granting of retrospective planning permission therefore in the absence of this required evidence and justification would be contrary to policy DM 36 to the Council's Development Management Plan (2014).

Relevant Development Plan Policies and Proposals:

Rochford District Council Local Development Framework Allocations Plan Adopted February 2014

Rochford District Council Local Development Framework Core Strategy Adopted Version (December 2011) - CP1

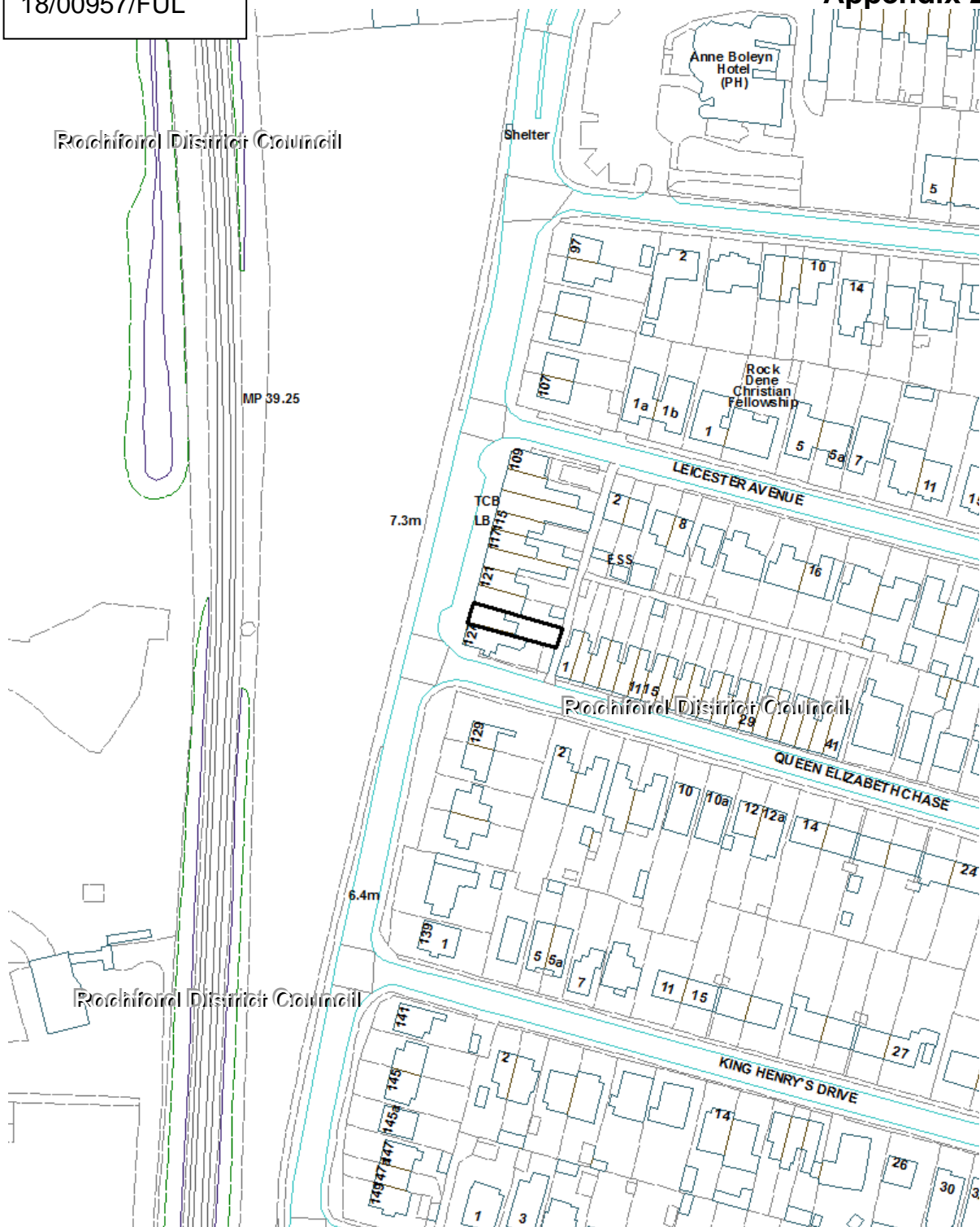
Rochford District Council Local Development Framework Development Management Plan adopted 16th December 2014. -DM36,

Parking Standards Design and Good Practise (2009)

The local Ward Member(s) for the above application are Cllr M J Lucas-Gill Cllr M J Steptoe Cllr A L Williams

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Appendix 2



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