

APPLICATION REFERRED FROM THE WEEKLY LIST**WEEKLY LIST NO. 1362 – 9 DECEMBER 2016****16/00618/COU****42 - 46 EASTWOOD ROAD RAYLEIGH****CHANGE OF USE FROM A1 (SHOP) TO A3/A4 FINE DINING
AND DRINKING ESTABLISHMENT****1 DETAILS OF REFERRAL**

- 1.1 This item was referred from Weekly List No. 1362 requiring notification to the Managing Director by 1.00 pm on Wednesday, 14 December 2016 with any applications being referred to this meeting of the Committee.
- 1.2 Cllr R R Dray referred this item on the grounds that most customers of the restaurant/bar will not, particularly in the evenings and early mornings, make use of the public car parks in Websters Way and Castle Road, but will seek to park as close to the venue as possible and will thus park in residential areas, causing noise, disturbance and nuisance to local residents, including residents of the nearby retirement complex. The area is of mixed use with residential, commercial and retail units and the site is close to the busy junction of Daws Heath Road and Eastwood Road, and from early evening until closure there will be no official monitoring of parking restrictions.
- 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.

Appendix 1

3 SITE AND PROPOSAL

1. Planning permission is sought for the change in use of a premises to provide a Class A3/A4 dining and drinking establishment. 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 a Thermoshield Windows Ltd showroom. The rear part of the site shares a side boundary with two residential dwellings on Daws Heath Road. 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 submitted floor plan indicates that the ground floor would feature a bar area and function rooms with further dining areas at first floor level. The application form states that there would be 20 full time employees and 10 part time employees.

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 fittings, 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

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/bar.

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.

6. 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.

7. 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.

8. 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.

9. 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/bar 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 which would allow the authority to have a degree of control over such matters in the event of any future disturbance to local amenity.

10. The application also includes details of the proposed opening hours which are to be 8am to 11pm for the restaurant and 8am to 2am for the bar operation. Officers note a planning approval in October 2014 which allowed the hours of operation to be increased at the nearby Marco's restaurant at 30 Eastwood Road. This planning consent, reference 14/00762/FUL, allowed for a variation Of Condition 1 of the original planning consent F/0306/92/ROC to extend opening hours to Sunday - Thursday 10:00 - 01:00 Friday - Saturday 10:00 - 02:00 to be in line with a licensing application. The proposed hours of operation would not be dissimilar to that approved at this other establishment.

11. The site plan indicates that the forecourt would provide for a total of seven parking spaces. Essex County Council as the Highways Authority has 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 neighbourhood consultation has resulted in a number of responses including twelve objections and four letters in support. The majority of objections arise from residents at the King George's retirement complex with residents concerned about potential noise and parking issues. Although these concerns are considered reasonable it is not considered that there are sufficient grounds for a refusal given the parking restrictions in the area, the provision of local car parks in close proximity and the town centre location where a restaurant/bar would not be objectionable in principle and would be compliant with the adopted Action Plan.

Representations:

RAYLEIGH TOWN COUNCIL - Objects to this application because the site is located in a predominantly residential area where occupiers could reasonably expect a level of amenity concurrent with the location. The use of the property as a fine dining and drinking establishment introduced a diverse element that by reason of the use is likely to result in noise, disturbance and nuisance to the detriment of neighbours residential amenity.

ECC HIGHWAYS -

The proposal will utilise the existing parking and turning provision within the curtilage. The

immediate local highway network is protected by parking restrictions to discourage undesirable parking habits. Public car parking facilities are available within walking

distance of the proposal site. Therefore; from a highway and transportation perspective the Highway Authority has no comments to make on this proposal.

NEIGHBOURS -

Letters of objection have been received from the following addresses:

Heath House, 38/40 Eastwood Rd, 10 Leslie Gardens, 4 Daws Heath Road, 8 properties in King Georges court including Nos. 8, 24, 25, 26, 37, 40 and two others.

Main points:

- Noise from drinking establishment
- Continuous breach of peace
- Impact on garden privacy
- Strong possibility that further vehicles would only increase this already problematic situation to a potential hazardous level.
- Children would be subject to loud music, shouting and swearing
- Limited parking and no turning circle
- Increase in traffic accessing already busy corner by mini roundabout
- Would be three restaurants within 50 yards which seems excessive
- Residents at King Georges Court receive a lot of disturbance
- Parking impact on St.Georges Close and on visiting ambulances
- Opening hours alarming
- Children's nursery and two retirement apartments in close proximity
- Rayleigh inundated with such establishments at the expense of retail outlets
- Dining and drinking establishments should be restricted to the High Street
- Late night noise would require our windows to be kept closed
- Pollution of noise and smells
- Letters in support have been received from the following addresses:
 - 44 and 138 Eastwood road, 6 Crosslands and one other. Main points:
 - A3 use previously granted in 2006
 - Great addition of independent eating establishment to area
 - Live close by but have no issues
 - Support a new restaurant/bar

APPROVE

- 1 SC4B Time Limits Full - Standard
- 2 The use shall only operate during the hours of 08:00 to 02:00 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

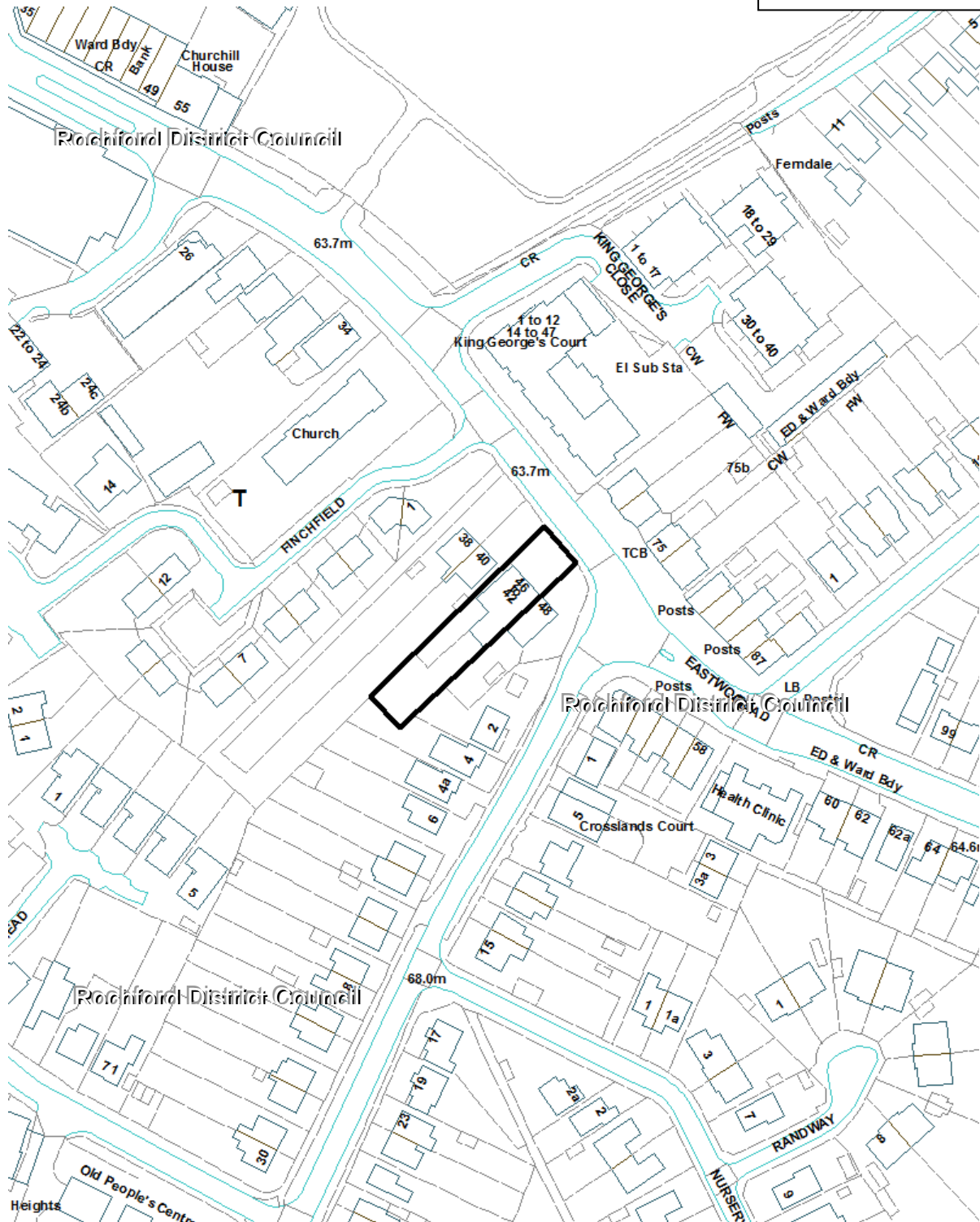
Development Management Plan - DM1

Rayleigh Town Centre Area Action Plan

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

Appendix 2

16/00618/COU



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