

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	28.09.2011		
Application Number	W/11/01642/FUL		
Site Address	2 High Street Westbury Wiltshire BA13 3BW		
Proposal	Change of use from A1 to A5		
Applicant	Barley Properties Ltd		
Town/Parish Council	Westbury		
Electoral Division	Westbury East	Unitary Member:	Michael Cuthbert-Murray
Grid Ref	387257 151359		
Type of application	Full Plan		
Case Officer	Mr Matthew Perks	01225 770344 Ext 15207 matthew.perks@wiltshire.gov.uk	

Reason for the application being considered by Committee

Councillor Cuthbert-Murray has requested that this item be determined by Committee due to the relationship to adjoining properties.

1. Purpose of Report

To consider the above application and to recommend that planning permission be granted.

Neighbourhood Responses

One neighbour objection was received.

Town Council Response

The Westbury Town Council objects to this application for the reasons laid out in the "Consultations" section of this report.

2. Report Summary

The main issues to consider are the acceptability of the proposed change of use from A1 within the Primary Retail Frontage area. Policy SP4 of the West Wiltshire District Plan, 1st Alteration 2004 is relevant especially as it relates to existing mix of uses so that changes from A1 do not prejudice the shopping function of the primary retail frontages or individually or cumulatively harm the vitality of the town centre. Further considerations are issues of amenity and highway safety.

3. Site Description

No 2 High Street is a ground floor retail unit of approximately 42m². It is situated at the north eastern end of High Street. At the time of writing it is occupied by a florist and forms the end unit on this row. The unit forms part of a purpose-built commercial development in High Street, together with residential units to the upper floors, although there is no residential unit directly above No.2. The property falls within the Westbury town centre Primary Retail Frontage area.

4. Relevant Planning History

On this site none, but it is considered that the overall pattern of use as it now exists must form part of the evaluation. This is further discussed in the "Considerations" section of this report, below.

5. Proposal

The proposal is for a change of use to an A5 use (hot food takeaway). No external alterations are proposed to the building. Existing access and parking arrangements would remain unchanged.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004)

C31a Design

C38 Nuisance

SP1 Town Centre Shopping

SP4 Primary Retail Frontage

PPS1 Delivering Sustainable Development

PPS4 Planning for Sustainable Economic Development

7. Consultations

Town Council

The Westbury Town Council objects to the proposal "...as this premises is in a prime retail location and change of use from A1 to A5 would result in further degradation of the High Street which is designated a primary retail zone which is already under threat due to an increased percentage of non A1 premises.

Highways

No objection, and no conditions recommended.

Environmental Health

No objections but recommendations in respect of hours of operation, the submission of noise odour control measure details.

8. Publicity

The application was advertised by site notice and neighbour notification. Expiry date: 15/07/2011

One response was received. The owner of the restaurant/takeaway at 10 High Street objects where his own premises were opened in April 2011 and there are many other restaurants and takeaways already. The change of use would result in one less retail shop, in the town.

9. Planning Considerations

Key Policy

The application site falls within the primary retail frontage of Westbury and as such policy SP4 of the West Wiltshire District Plan 1st Alteration 2004 is a primary consideration. This Policy states that:- "changes of use from A1 to A2 and A3 uses at ground floor level will only be permitted having regard to the existing mix of uses, where they do not prejudice the shopping function of the primary retail frontages or individually or cumulatively harm the vitality of the town centre."

(In the interests of clarity it is noted that, at the time of the adoption of the local development plan in 2004 the Use Class of A5 - hot food takeaway - had not yet been introduced and would have been

considered to be A3 in terms of the then-applicable Use Classes Order. It is therefore considered reasonable to treat A5 uses as A3 restaurant and cafes for the purposes of Policy SP4).

Current mix of town centre uses

A survey of the Primary Retail Frontage reveals that:

- there are a total of 30 separate business units in this area;
- 22 are A1 shops (19 in-use, with 3 vacant, including the application site and with another of these that has signs of activity inside, but is not open);
- 4 units are A2 professional services (banks and estate agents);
- 1 is a D1 institutional use (education);
- 1 cafe site (A3) that is vacant but has a notice of pending re-opening under a new name; and
- there are two A5 takeaways.

(The Visitor Centre, immediately adjacent to the Primary Frontage, is also vacant)

This information indicates:

- that there is a strong mix of uses with the majority in retail use consistent with a town centre shopping area; and
- A1 uses would still constitute approximately 70% of the business types, if it is accepted that the vacant sites will be occupied, and this permission is granted.

Whilst acknowledging the Town Council's observations, Policy SP4 has no quantitative criterion or threshold basis on which to assess individual or cumulative harm to the vitality of the town centre in terms of non-A1 uses. Further guidance in the form of PPS4 (Planning for Sustainable Economic Development) is that Local Planning Authorities "... should proactively plan to promote competitive town centre environments and provide consumer choice by..." "... supporting a diverse range of uses which appeal to a wide range of age and social groups, ensuring that these are distributed throughout the centre." From discussions with the agent, it is understood that the current retail use would remain, in accordance with the terms of its lease, but that if it did subsequently fall vacant, the permission would enable a wider reach of marketing for viable uses.

Research on appeal case histories furthermore reveals that Inspectors have concluded that food outlets can be beneficial to reviving dead frontages since catering uses generate a high level of pedestrian attraction and evening opening helps keep shopping centres alive. Whilst each case must be treated on its own merits it is considered that the proposal has the potential to add to the mix of uses in the Primary Retail Frontage, whilst not harming what would remain the predominantly A1 function of the area.

The objections from the Town Council are understandable but the proposed change of use away from A1, even given the suggested possible recovery of the town centre in 18 months as a result of regeneration initiatives, would still result in a use that would generate footfall in the area, also beyond current hours associated with the immediately surrounding retail, institutional and banking uses.

With regard to neighbour objection the issue of new competition is not considered material to this decision. The objector also raises the issue of the mix of units within the High Street Highway that the Town Council highlighted. This aspect is discussed in paragraphs above.

Other consultees

Highway officers have no objection to the proposal and make no recommendation in respect of additional conditions. The site is in an accessible town centre locality and wholly adequate parking facilities are available in the vicinity.

The Environmental Health Officer also raises no objection, and recommends conditions which it is considered reasonably address matters of opening hours and nuisance control, along similar lines to those imposed elsewhere in the vicinity.

Conclusion

Based on the above considerations, the application is recommended for permission.

Recommendation: Permission

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The use hereby permitted shall only take place between the hours of 08:00 and 23:00.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

POLICY: West Wiltshire District Plan - 1st Alteration - C38.

3 Prior to the operation commencing a scheme of noise control shall be submitted to the LPA for approval. The scheme shall be fully implemented prior to the use commencing.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

POLICY: West Wiltshire District Plan - 1st Alteration - C38.

4 Prior to the operation commencing a scheme of odour control shall be submitted to the LPA for approval. Once approved, the scheme shall be fully implemented prior to the use commencing.

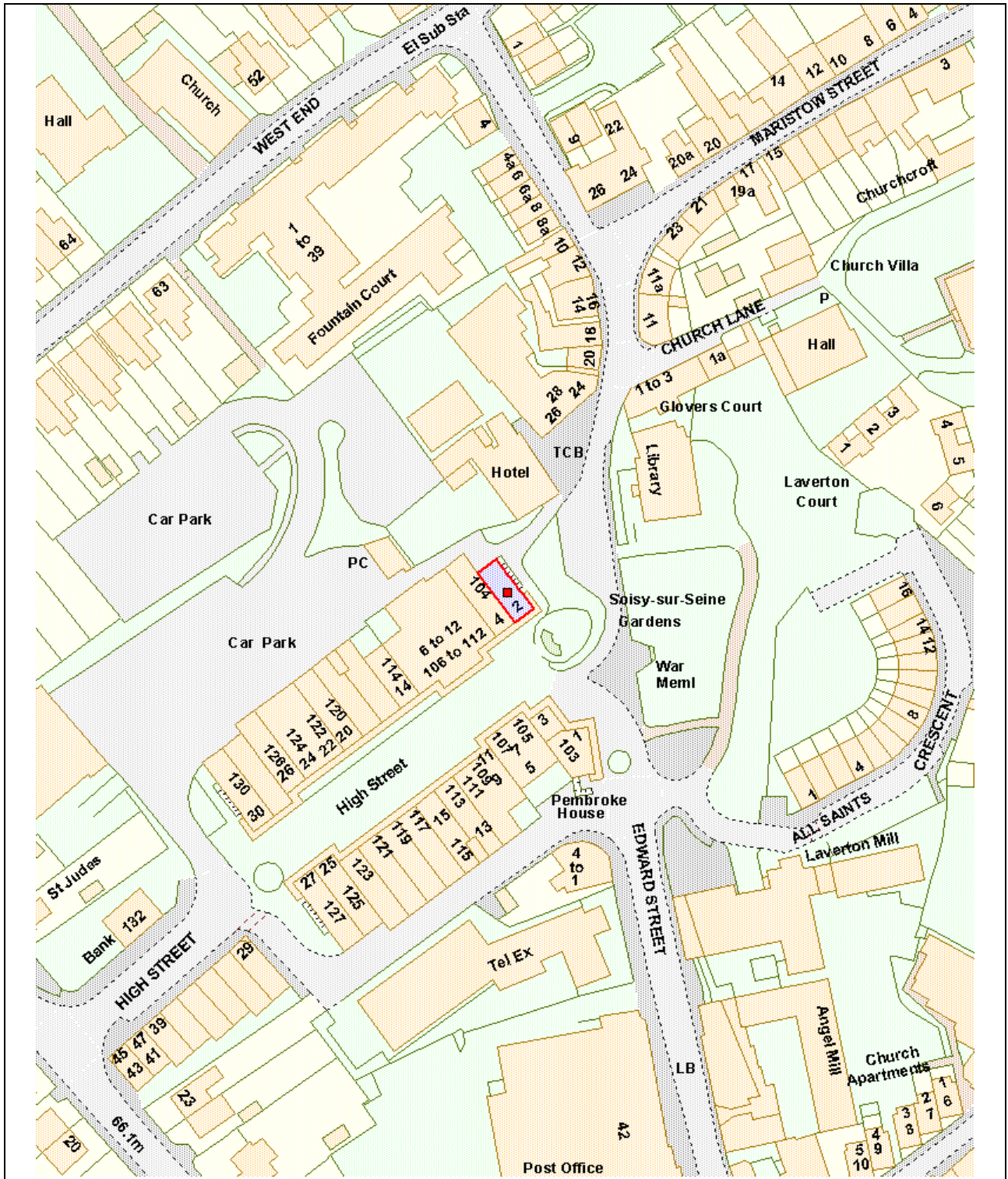
REASON: To ensure the creation/retention of an environment free from intrusive odours in the interests of the amenity of the area.

POLICY: West Wiltshire District Plan - 1st Alteration - C38.

Informative(s):

1 The applicant is advised to contact the food safety team when considering more detailed design and layout and prior to the operation of any food business.

Appendices:	
Background Documents Used in the Preparation of this Report:	



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