

PLANNING APPLICATION REPORT

Case Officer: Mathew Dalton-Aram

Parish: Dartmouth **Ward:** Dartmouth and East Dart

Application No's: 3230/16/COU & 3204/16/FUL

Agent/Applicant:

Savills
12 Windsor Place
Cardiff
CF10 3BY

Applicant:

Costa Limited

Site Address: 5-9 Victoria Road, Dartmouth, Devon, TQ6 9RT

Development:

This report deals with two applications. 1. The change of use from retail (Class A1) to coffee shop (Mixed A1/A3 Class) (application 3230/16/COU) and 2. Modifications to the shopfront and the installation of 1 air conditioning unit on the side wall (application 3204/16/FUL).

Reason item is being put before Committee: At the request of Ward Member (Cllr Hawkins) to consider the proposal's impact on the town centre and adjoining residential properties.



Recommendation: Conditional Approval

Conditions (summary of conditions, see end of report for full list)

Application 3230/16/COU - Change of use from retail (Class A1) to coffee shop (Mixed A1/A3 Class)

1. Standard Time Limit
2. Approved Plans
3. Noise Mitigation Measures
4. Hours of Operation
5. Access via Main Entrance

Application 3204/16/FUL - Modifications to shopfront and installation of 1 air conditioning unit on side wall

1. Standard Time Limit
2. Approved Plans
3. Noise Mitigation Measures
4. Air Conditioning Operation Hours
5. Access via Main Entrance

Key issues for consideration:

- Sustainability
 - Principle of Change of use
 - Impact on town centre viability
 - Highway impact
 - Residential amenity
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Site Description:

The application site is a vacant retail shop (Class A1) most recently occupied by The Chocolate Destination and Ribbons and Bows. The shop has been vacant since 31 March 2016.

The site is located on Victoria Road in the Central Shopping Area of Dartmouth. The area surrounding the site is characterised by a mix of uses, primarily A1 uses, and other uses such as A2 (Financial & Professional Services), A3 (Restaurants & Cafes), A4 (Drinking Establishments) and A5 (Takeaway). There are also residential uses in close proximity to the site including the flats above the shop and the dwellings at Hanover Cottages to the rear of the site.

The site is located opposite to the Market House Inn public house and the junction with Market Street. It is adjoined to the east and west by retail shops (Saveurs and Eleven Clothing, respectively). A gated alleyway to the west of the site provides access to a private courtyard which serves Hanover Cottages to the rear of the former shop. Access to the flats above the former shop are also available via the alleyway/private courtyard.

The site is within the Dartmouth Conservation Area. The site is not itself a listed building but the Market House Inn opposite to the site and the building which houses Saveurs to the east are both Grade II listed buildings. The site is also within relatively close proximity to the historic Butterwalk.

The Proposal:

The proposal seeks permission for a change of use of a currently vacant retail shop (Class A1) to a coffee shop (mixed class A1/A2) (application 3230/16/COU) and for modifications to the shopfront and the installation of 1 air conditioning unit on the side wall (application 3204/16/FUL).

Consultations:

Application 3230/16/COU - Change of use from retail (Class A1) to coffee shop (Mixed A1/A3 Class)

- County Highways Authority – no highways issues raised
- Environmental Health Section – There are 34 seats in the plans with only a single toilet to serve both customers and staff. The standards followed in South Hams, put simply are for 1 toilet for up to 15 covers and 2 toilets for up to 50 covers. Including staff there are potentially up to 40 people served by this single toilet and this clearly falls short of the standards.

The expectation to rely partly on public toilets in the vicinity would only be acceptable in circumstances where there was no other option and it was agreed in writing with the Council and the owners of the toilets. In this case there looks to be enough space around the area of the currently proposed toilet to fit in another small toilet compartment without significantly impacting on the total number of seats.

Although no a matter for Planning or Building Control enforcement, Environmental Health can serve notice on a premises for inadequate toilet provision. Other premises in South Hams that have installed adequate numbers of toilets have lost space for seating in the process and therefore this proposed development would put this premises at an unfair advantage over its competitors.

- Dartmouth Town Council – Recommend refusal on the grounds of being unneighbourly. The air conditioning units would be too close to Hanover Cottages. Members considered that these units would create noise and disturbance which would have a detrimental effect on the amenity currently afforded to the residents of Hanover Cottages. Members also felt that the deliveries and rubbish collections on the narrow highway, causing possible highways issues. Also to recommend refusal on the grounds of loss of an A1 retail unit, further upsetting the balance of A1 to A3 units in Dartmouth.

Application 3204/16/FUL - Modifications to shopfront and installation of 1 air conditioning unit on side wall

- County Highways Authority – no highways issues raised
- Environmental Health Section – Object due to the lack of information: Lack of noise assessment. The applicant has not provided a noise impact assessment for the proposed air conditioning units and other mechanical plant. As such Environmental Health is unable to determine the acceptability or otherwise of the proposals.
- Dartmouth Town Council – Recommend approval taking into consideration the comments made in respect of application 3230/16/COU.

Representations:

At the time of writing this report 87 letters of OBJECTION and a petition containing 1554 signatures, had been received.

In summary the objections raise the following issues:

- Impact on the diversity and vitality of the town centres
- Impact on local business and independent retailers
- No need for additional chain stores
- There are enough coffee shops in the town already
- Proposal will create litter, noise and disturbance
- Would adversely affect the amenity of neighbouring properties in terms of noise and disturbance
- Highway safety impacts and traffic generation

- The signage/advertisements would be out of keeping with the Conservation Area and the town centre

At the time of writing this report 80 letters in support of the application had been received, representations in support of the application.

In summary the representations in support made the following comments:

- Provision of jobs
- Economic generation
- Provision of choice of retail options
- Proposal would not affect town centre or existing businesses

Relevant Planning History

There have been a number of applications at the site including applications for the installation of 2 external air conditioning units (approved under permission 15/1670/09/F) and advertisement consents for signage as well as permissions for alterations to the flats above the shop.

A separate application has been submitted alongside the applications for change of use and modifications to the shopfront and installation of the air conditioning unit which seeks advertisement consent for the installation of signage (application ref. 3205/16/ADV).

ANALYSIS

Principle of Development/Sustainability:

At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development, of which there are three dimensions – an economic role, a social role, and an environmental role, which are mutually dependent.

To ensure the vitality of town centres paragraph 23 of the NPPF advises:

“Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.”

The site is located within the development boundary and Central Shopping Area of Dartmouth where policy SHDC1 of the South Hams Local Plan permits proposals where they would be compatible with the character of the site and its surroundings and where there would be no significant adverse effects in relation to traffic and parking, road safety, drainage, the landscape, wildlife and historic interests or local amenity.

Policy SHDC23 (Shopping in Towns) of the South Hams Local Plan is also relevant to proposals within the Central Shopping Areas of Dartmouth:

- a) shopping development (Use Class A1) will be permitted.
- b) Proposals for non-shopping use, including Use Class A2 (Financial and Professional Services) and A3 (Food and Drink) of ground floor premises will be permitted, providing it would not:
 - (i) undermine the shopping character of the street;
 - (ii) detract from the appearance of the environment; or
 - (iii) adversely affect amenity of the surrounding area through consequent noise, smell, litter, congestion on pavements or disturbance arising from late opening hours.

A large number of representations have been received both in objection and in support of the proposed change of use. Many of the objections received, among other things, relate to the applicant being a national retail chain rather than an independent locally-based retailer, and the potential impacts on independent retailers in the area and competition with larger retail businesses. The Local Planning Authority is required to assess each application on its own individual merits and, as such, the material planning consideration for this application is the change of use for retail (Class A1) to

coffee shop (Mixed A1/A3 Class). The Local Planning Authority must, therefore, consider the merits of the submitted proposal rather than the suitability and nature of the type of retailer that has applied for planning permission which is not a material planning consideration.

Several objections also refer to the diversity of the town centre and its protection. While the diverse nature of the town centre is acknowledged and that there are a high proportion of independently-owned businesses there are also high street businesses and larger retail chains in close proximity to the site.

As identified above the NPPF seeks to promote a wide range of businesses in town centres with the aim of providing jobs and economic activity to ensure the vitality of town centres. The proposal would also result in the creation of approximately 10 full time equivalent jobs. It is reasonable in a town centre location to seek to encourage a diverse range of different retail businesses to support the economy of the town and to provide shoppers with a choice of retail options.

The Supporting Planning Statement submitted with the application provides an overview of the current uses (as surveyed on 03/09/2015) that are within the Central Shopping Area along Victoria Road and Duke Street. It identifies that of the 34 units fronting this part of the highway, 27 are A1 uses, 3 are A3, 4 are A2 and 1 is an A4 use.

In view of this, it is considered that the proposed change to a A1/A3 use would not harm the vitality and viability of the Central Shopping Area or undermine the shopping character of the surrounding area. The Central Shopping Area would continue to contain predominately A1 uses with a wide mix of A2, A3, A4, A5 and other uses also being available. The addition of a mixed A1/A3 use would not, therefore, have a detrimental impact upon the vitality and viability of the town centre or make a significant impact upon the ratio of use classes.

Design/Landscape:

Modifications to the existing shopfront are proposed under application 3204/16/FUL which include a new door and a new glazed panel over the door to bring the shopfront up to current safety standards.

While the existing building is within the Conservation Area it makes little contribution to its setting. It is considered that the modifications to the shopfront and the use of traditionally-styled advertisements would preserve and enhance the character and appearance of the Conservation Area. In addition, the proposed modifications and signage would not harm the character and appearance of adjacent heritage items or their settings.

Neighbour Amenity:

To the rear of the site are number of residential properties (Hanover Cottages), as well as flats above the proposed café, which are accessed via the alleyway to the west of the site and internal courtyard to the rear of the existing shop. It is noted that the residents of Hanover Cottages have objected to the proposed change of use as they consider a café use would be more intensive, and more noisy and disruptive than the previous shop and would require a greater requirement of bin storage to the rear of the café.

The residents and town council have also raised concerns about the proposed air conditioning units to be installed to the western elevation of the building given the proximity of the units and potential impact on adjacent residential properties. A Noise Impact Assessment has subsequently been submitted to address these issues which recommends an upgrade to the ceiling as part of the fit out to prevent noise to the first floor flat and reducing the number of air conditioning units from 3 to a single unit, as well as retaining the existing sight screens, which would have the same noise impact as the existing units (approved under application 15/1670/09/F). The Environmental Health Section has reviewed the Noise Impact Assessment, revised elevations and plant arrangements and is satisfied the impact on the neighbouring amenity can be adequately controlled subject to conditioning the installation of the additional ceiling insulation prior to first use of premises as a coffee shop.

The proposed opening hours are 06.30 and 20.00 Monday to Saturday and 08:00 and 18:30 on Sundays and Bank Holidays which subject to condition are considered acceptable to protect the amenity of adjacent neighbours. The site is in the town centre where it is acceptable for retail uses to be able to open up at that time and the same would apply to the proposed café. To further protect amenity, it is also recommended that a condition is attached to ensure no deliveries are taken at or dispatched from the site outside the hours of 07:00 and 19:00 hours.

The alleyway and courtyard are not included within the application site boundary and it is understood there is no right of way over this land for commercial purposes. However, the submitted plans show an access to the rear of the shop leading to a proposed bin door store underneath the stairs to the flat above. It is recommended that a condition be attached to ensure that all deliveries take place through the main entrance and not via the rear of the shop to protect residential amenity from the operation of the café.

It is, therefore, considered that the amenity of neighbouring residential properties can be adequately protected through the use of the conditions identified above.

Highways/Access:

While it is noted objectors have raised highway implications arising from the proposed use the Local Planning Authority considers the parking arrangements, including loading time restrictions, in the surrounding area would be adequate to accommodate the proposed use the County Highways Authority has raised no objections to the proposal. The site has formerly operated as a retail unit and it is reasonable to expect deliveries to shops within the town centre. Adverse impact arising from parking of cars and access by delivery vehicles would be a matter for parking enforcement rather than control through the planning system.

Other Matters:

Flood risk

The site is located within Flood Zone 2 where there is a medium risk of flooding and the application is supported by a Flood Risk Assessment (FRA). The FRA advises that the existing use is classified as 'Less Vulnerable' and there would be no change in the vulnerability of the use. Further, there would be no change in floor levels or the footprint of the business and would pose no additional risk of flooding to the public.

Toilet provision

The Environmental Health Section has raised concerns that only one toilet is to be provided for a café with approximately 34 covers and has advised the applicant that future enforcement could be taken against non-compliance with its standards. It is also noted that the building control Approved Inspector has approved the proposal taking into account the public toilets in Old Market Square that are in close proximity to the site. While these concerns are acknowledged this is not a reason for which planning permission could reasonably be withheld and would instead be a matter for compliance with relevant Environmental Health and Building Control legislation.

Conclusion

The vacant shop currently makes little contribution to the vitality and viability of the Central Shopping Area and its reuse would have economic and social benefits for the town centre. The proposed change of use to an A1/A3 use would not adversely impact the vitality and viability of the Central Shopping Area nor would it undermine the shopping character of this part of the town centre. Further, the proposal would not result in a significant loss of A1 uses available in the town centre and a significant majority of shops in this part of the town centres would remain A1 along with other uses.

For the above reasons, and subject to securing appropriate conditions including those to protect the amenity of neighbouring properties, the proposal is considered acceptable.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and, with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

South Hams LDF Core Strategy

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

Development Policies DPD

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP4 Sustainable Construction

DP6 Historic Environment

DP7 Transport, Access & Parking

South Hams Local Plan

SHDC 1 Development Boundaries

SHDC 23 Shopping in Towns

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

Conditions

Application 3230/16/COU - Change of use from retail (Class A1) to coffee shop (Mixed A1/A3 Class)

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. The development hereby approved shall in all respects accord strictly with the Site Location Plan and Proposed General Layout (drawing number 3.0 G) received by the Local Planning Authority

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

3. Prior to use of the development hereby permitted, the mitigation measures, including the proposed ceiling upgrade, outlined in the noise assessment entitled 'Technical Note on Noise & Sound Insulation' prepared by Acoustic Associates South West Ltd dated 21 December 2016 shall be fully implemented and thereafter be retained and maintained.

Reason: To ensure that the development shall not prejudice the amenities enjoyed by the occupants of properties in the neighbourhood.

4. The premises shall not be operated outside the hours of 06:30 to 20:00 Monday to Saturday and 08:00 to 18:30 on Sundays and bank holidays.

Reason: To safeguard the residential amenities of adjoining residential properties.

5. No deliveries shall be taken at or dispatched from the site outside the hours of 07:00 and 19:00 hours.

Reason: In the interests of residential amenities.

6. The alleyway to the west of the shop and the rear courtyard adjacent to Hanover Cottages shall not be used at any time for commercial purposes. All deliveries and business operations, including refuse collections, shall take place through the shop/café via the main entrance.

Reason: In the interests of residential amenities.

Application 3204/16/FUL - Modifications to shopfront and installation of 1 air conditioning unit on side wall

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. The development hereby approved shall in all respects accord strictly with the Site Location Plan, Block Plan and Proposed General Layout (drawing number 3.0 H), Proposed External Side Elevation (drawing number 4.1 E) and Proposed External Rear Elevation (drawing number 4.2 B) received by the Local Planning Authority

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

3. Prior to use of the development hereby permitted, the mitigation measures, including the proposed ceiling upgrade, outlined in the noise assessment entitled 'Technical Note on Noise & Sound Insulation' prepared by Acoustic Associates South West Ltd dated 21 December 2016 shall be fully implemented and thereafter be retained and maintained.

Reason: To ensure that the development shall not prejudice the amenities enjoyed by the occupants of properties in the neighbourhood.

6. The air conditioning units shall only be operated between the hours of 06:30 and 20:00 Mondays to Saturdays, and 08:00 and 18:30 on Sundays and bank holidays.

Reason: To ensure that the development shall not prejudice the amenities enjoyed by the occupants of properties in the neighbourhood.