

Committee Report**Date: 06.06.2018**

Item Number	8e
Application Number	17/01077/FUL
Proposal	Erection of a free standing ice cream kiosk on forecourt
Location	71A Victoria Road West Thornton Cleveleys Lancashire FY5 1AJ
Applicant	RCA Interiors
Correspondence Address	Mr Richard Chadwick Unit 2A Parkway Trading Estate Alba Way Trafford Park Manchester M32 0TL
Recommendation	Permit

REPORT OF THE HEAD OF PLANNING SERVICES**CASE OFFICER - Mrs Charlotte Parkinson****1.0 INTRODUCTION**

1.1 The application is being presented to Planning Committee because it is considered to be a distinctive and unusual development and the Local Planning Authority has not previously dealt with anything of this nature before. It also has the potential to set a precedent for similar proposals, which may generate a high level of public interest. A site visit is recommended to enable Members to understand the proposal beyond the plans submitted and the photos taken by the case officer.

2.0 SITE DESCRIPTION AND LOCATION

2.1 The application site is the forecourt of an established commercial property on the northern side of Victoria Road West, Cleveleys. The site falls within the primary shopping area of Cleveleys as defined by the Wyre Borough Local Plan. It also falls within flood zone 3 as defined by the Environment Agency.

3.0 THE PROPOSAL

3.1 The application is to erect a detached freestanding retail kiosk structure in the forecourt area, 4.9m south of the commercial property frontage. The kiosk would be 2.4m wide and 2.4m long and measure 2.6m high to the eaves and 2.9m to the top of a flat roof canopy. The proposed materials to be used are steel box framing (granite grey colour RAL 7026), oak timber panelled inserts and glass windows. The north elevation of the kiosk facing No. 71A would contain the serving hatch with steel roller shutter. This would be housed internally behind the fascia.

4.0 RELEVANT PLANNING HISTORY

4.1 17/01028/FUL - Change of use of ground floor from tobacconist (A1) to coffee shop (A3) with associated internal alterations and new shop front - Approved
15.01.2018

5.0 PLANNING POLICY

5.1 NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

5.1.1 The NPPF was published by the Department of Communities and Local Government on the 27th March 2012. It sets out the Government's planning policies for England and how these are expected to be applied in the determination of planning applications and the preparation of development plans. The ministerial forward to the NPPF states that "Development that is sustainable should go ahead without delay - a presumption in favour of sustainable development that is the basis for every plan and every decision". Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

5.1.2 The most relevant sections of the NPPF to the determination of this application are considered to be:

- o Section 1 - Building a strong competitive economy
- o Section 2- Ensuring the vitality of town centres
- o Section 7 - Requiring good design

5.2 ADOPTED WYRE BOROUGH LOCAL PLAN (SAVED POLICIES)

5.2.1 The Wyre Borough Local Plan was adopted on the 5th July 1999. The saved Local Plan forms part of the development plan for the district. Due weight should be given to relevant policies according to their degree of consistency with the NPPF.

5.2.2 The following policies are considered to be of relevance to the determination of this application:-

- o SP14: Standards of Design and Amenity
- o ENV13: Development and Flood Risk

5.3 EMERGING LOCAL PLAN

5.3.1 The Council is in the process of preparing a new Wyre Local Plan. Following public consultation on the 'Publication' draft Wyre Local Plan (2011 -2031), the Council submitted the draft Local Plan with minor amendments to the Government for examination on the 23rd January 2018. The minor amendments deal with clarification matters or errors raised at the public consultation and they do not alter the substance of the 'Publication' draft Wyre Local Plan. The 'Submission' stage is an advanced stage in the local plan process. It confirms the Council's position with regard to how development needs will be accommodated and how they must be delivered. This position is supported by a comprehensive and robust evidence base. This stage is a further advancement in the local plan process. Although the draft Local Plan does not have the full weight of an adopted Local Plan it has been approved as a material consideration in the determination of planning applications from the date of publication, replacing the Core Strategy Preferred Options document' As the draft Local Plan has now advanced to 'submission' the weight to be given in the planning balance has increased depending on the particular circumstances of the case.

5.3.2 The following policies contained within the draft Local Plan are of most relevance:

- CDMP3 Design
- EP4 Town and District Local Centres
- EP5 Main Town Centre Uses
- EP6 Development in defined primary and secondary frontages
- EP15 Security Shutters

6.0 CONSULTATION RESPONSES

6.1 LANCASHIRE COUNTY COUNCIL (HIGHWAYS)

6.1.1 No objections, the proposal will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity. The private forecourt is not on the adopted highway. The wide pedestrian footway can accommodate the associated queueing for ice cream at peak times. It is requested that the window for serving customers is not at the south east side onto the adopted highway.

6.2 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (AMENITY)

6.2.1 To prevent an adverse impact on the health and quality of life of nearby residents, a number of conditions are requested stipulating no hot food to be sold, hours of use (8am - 8pm), that noise from plant / machinery / equipment should be inaudible inside the nearest noise sensitive properties and no use of amplified sound.

7.0 REPRESENTATIONS

7.1 None

8.0 CONTACTS WITH APPLICANT/AGENT

8.1 The agent has been contacted for the purposes of requesting further information and revised/additional plans, together with details of materials.

9.0 ISSUES

Principle of development

9.1 Within the Adopted Local Plan the site falls within the Primary Shopping Area of Cleveleys. Policy TC2 permits the change of use at ground floor level to a use class other than A1 retail provided that there would be no adverse effect upon the dominance of retailing and the character, diversity and vitality of the retail element in the designated areas.

9.2 The proposal seeks to provide new development on an existing forecourt belonging to the premises at 71A Victoria Road West where the principle of development involving a change of use from A1 retail to A3 coffee shop has already been established in a recent planning permission (reference 17/01028/FUL). The kiosk will be used to sell ice cream and hot drinks and will be ancillary to the use of the premises 71A Victoria Road West. The applicant has stated that the floor space in the recently approved café is limited and the intention is to relocate some of the sales to the kiosk taking advantage of the busy footfall area.

9.3 Section 2 of the NPPF recognises that town centres are at the heart of the community and support should be given to their viability and vitality. Proposals should reflect the individuality of the town centre. It is necessary to promote

competitive town centres that provide customer choice and a diverse retail offer along with retaining and enhancing existing markets and where appropriate re-introduce or create new ones, ensuring that markets remain attractive and competitive. The development would help to support the vitality and viability of Cleveleys and promote its distinction and character as a coastal town centre. Section 4 of the NPPF encourages commercial uses in sustainable locations. The site is located in the town centre near to public transport and other commercial uses and is therefore sustainable.

9.4 The principle of allowing an ancillary use to the approved A3 coffee shop at 71A Victoria Road West would not conflict with Local Plan Policy TC2, and the principle of the proposal in adding vitality to this sustainable town centre location is supported by national policy.

Visual Impact / Design / Impact on the street scene -

9.5 This proposal would be the first of its kind in this particular town centre location. Therefore a good quality design is an important consideration.

9.6 The proposal is located on the forecourt of 71A Victoria Road West which has recently been granted planning permission for a change of use to coffee shop (A3) with associated internal alterations and new shop front. The commercial premises benefits from a wide forecourt. The dimensions of the flat roof kiosk are modest at 2.4m wide and 2.4m long with a maximum height of 2.9m. There are other temporary structures on forecourts in this location e.g. temporary stalls and retail stands which are removed after trading hours, in the winter and in periods of bad weather. However, there are no other permanent structures. The application seeks to erect a freestanding structure for the sale of ice cream and hot drinks in a prominent town centre location and busy footfall area. In the interests of visual amenity it is recommended that the kiosk be approved on a seasonal basis, with a condition to require its removal in the winter months (1st October - 31st February inclusive).

9.7 The proposed materials as detailed in section 3.1 of this report are considered acceptable in this location. All elevations are partly glazed except the elevation with the serving hatch (which faces towards the café) which will house a steel roller shutter when the kiosk is closed. Details of the shutter show the shutter box housed internally and integrated within the fascia. The shutter covers a small area of the serving hatch facing towards the café and therefore will not be visible from the road, only in the immediate vicinity as seen by passing pedestrians.

9.8 Within this wide forecourt area it is considered the modest scale kiosk proposed as an ancillary use to No. 71A would be viewed against the backdrop of main commercial premises and not harm the visual amenity of this part of the town centre in the summer months. Subject to a condition requiring it to be built in accordance with the submitted materials and shutter detail, and a condition requiring details of the shutter materials, the kiosk design is considered to be acceptable in accordance with Saved Local Plan policy SP14.

Impact on Residential Amenity

9.9 To prevent an adverse impact on the health and quality of life of nearby residents, Environmental Health request a number of conditions stipulating no hot food to be sold, hours of use (8am - 8pm), that noise from plant / machinery / equipment should be inaudible inside the nearest noise sensitive properties and no

use of amplified sound. These conditions are considered necessary and reasonable to impose.

Impact on Highway / Parking

9.10 LCC Highways raise no objections. They have advised that the private forecourt is not on the adopted highway and the wide pedestrian footway can accommodate the associated queuing at peak times. The serving hatch would not directly face onto the adopted highway. There would be no impact on parking.

Flood Risk and Drainage

9.11 The proposal is located within Flood Zone 3 and the applicant has provided a flood risk assessment. This shows that internal floor levels to the kiosk will be 250 mm above existing external level and all electrics will be a minimum of 600mm above the new internal floor level. This is considered acceptable. In addition a condition is recommended to require the kiosk to be securely anchored to the ground at all times. The proposal involves a minor non-residential extension to an existing commercial premises and so it is not necessary to apply the sequential and exceptions tests in this instance. No drainage issues are identified.

Trees

9.12 There are no trees that will be affected by this proposal.

10.0 CONCLUSION

10.1 This development is the first of its kind in this location. The principle of allowing this ancillary use in a sustainable town centre location is accepted. The kiosk is modest in scale however given the prominent location it is recommended that the structure be removed in the winter months and that conditions are imposed to ensure the materials and shutter details submitted are adhered to. The proposal is acceptable in highway safety and flood risk terms and conditions can be imposed to safeguard nearby residential amenity. No other issues or concerns are identified.

11.0 HUMAN RIGHTS ACT IMPLICATIONS

11.1 ARTICLE 8 - Right to respect the private and family life has been considered in coming to this recommendation.

11.2 ARTICLE 1 - of the First Protocol Protection of Property has been considered in coming to this recommendation.

12.0 RECOMMENDATION

12.1 Grant planning permission subject to conditions.

Recommendation: Permit

Conditions: -

1. The development must be begun before the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application received by the Local Planning Authority on 20th November 2017 including the following plans/documents:

Ground Floor Plan (Revised) Drwg No 1 1404
Kiosk Plans and Elevations Drwg No 2 1404
Shutter Plans Drwg No 3 1404
Revised Location Plan

The development shall be retained hereafter in accordance with this detail.

Reason: For the avoidance of doubt and so that the Local Planning Authority shall be satisfied as to the details.

3. The development shall be carried out using those materials specified on the approved plan, namely

Steel box framing RAL 7026 granite grey
Oak timber panel inserts (sample of this material also provided)

Reason: To safeguard the visual amenities of the locality and in accordance with Policy SP14 of the Adopted Wyre Borough Local Plan (July 1999).

4. Notwithstanding the details submitted for the shutter, building work shall not commence until details of the style, design and colour of the shutter are submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials.

Reason: To safeguard the visual amenities of the locality and in accordance with Policy SP14 of the Adopted Wyre Borough Local Plan (July 1999). The details are required prior to the commencement of the development because they were not submitted with the application.

5. No amplified recorded or live music shall be played at any time in the kiosk hereby approved.

Reason: To avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy SP14 of the adopted Wyre Borough Local Plan (July 1999) and the National Planning Policy Framework.

6. The use of the kiosk hereby permitted shall not operate outside the hours of 08.00 to 20.00.

Reason: In the interests of the amenity of occupiers of neighbouring and nearby residential properties in accordance with Policy SP14 of the adopted Wyre Borough Local Plan (July 1999).

7. Noise and vibration from all plant, machinery and equipment connected with the use of the kiosk hereby permitted shall be inaudible inside noise sensitive premises (with their windows open or closed) and within their outside amenity areas (to include balconies).

Reason: To minimise the risk of noise pollution that may cause nuisance and harm the amenity and/or health of occupiers of nearby buildings, in accordance with Policy SP14 of the Adopted Wyre Borough Local Plan (July 1999) and the National Planning Policy Framework.

8. The use of the kiosk hereby approved shall not involve the cooking or sale of hot food.

Reason: To minimise the risk of odours that may cause nuisance and harm the amenity of occupiers of nearby buildings, in accordance with Policy SP14 of the Adopted Wyre Borough Local Plan (July 1999),

9. When in place the kiosk shall be securely anchored to the ground at all times.

Reason: The site is located in Flood Zone 3 and so to prevent it from becoming mobile during a flood event to ensure an appropriate development in accordance with the National Planning Policy Framework.

10. The kiosk authorised by this permission shall be removed not later than 1st October of each calendar year and immediately following each such removal there shall be carried out such works as may be required for the reinstatement of the land to its condition before the development took place. The kiosk shall not subsequently be placed again on the site before 1st March of each calendar year.

Reason : To enable the Local Planning Authority to retain a measure of control over the development in a prominent location thereby safeguarding the amenities of the area in accordance with policy SP14 of the Adopted Wyre Borough Local Plan (July 1999).

11. The use of the kiosk shall be restricted to purposes which are ancillary to the main use of 71A Victoria Road West and shall not be used as a separate unit.

Reason: To prevent the over-development of the site in accordance with Policy SP14 of the Adopted Wyre Borough Local Plan (July 1999).