

**Application Number:** 17/11316 Full Planning Permission

**Site:** 2 HIGH STREET, TOTTON SO40 9HN

**Development:** Change of use of ground floor to (C3) 3 residential flats; window alterations

**Applicant:** Mr Newman

**Target Date:** 22/11/2017

<b>RECOMMENDATION:</b> Refuse
<b>Case Officer:</b> Richard Natt

**1 REASON FOR COMMITTEE CONSIDERATION**

Request of Member of Planning Committee.

**2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS**

Town Centre  
Built up area

**3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES**

**Core Strategy**

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
4. Economy
6. Towns, villages and built environment quality

Policies

- CS2: Design quality
- CS8: Community services and infrastructure
- CS10: The spatial strategy
- CS20: Town, district, village and local centres

**Local Plan Part 2 Sites and Development Management Development Plan Document**

- DM3: Mitigation of impacts on European nature conservation sites
- DM16: Within town centres, outside Primary Shopping Areas and Secondary Shopping Frontages

**4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE**

- Section 38 Development Plan
- Planning and Compulsory Purchase Act 2004
- National Planning Policy Framework

## **5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS**

SPD - Parking Standards

SPG - Totton Town Centre - Urban Design Framework

## **6 RELEVANT PLANNING HISTORY**

6.1 One block of 8 flats (82079) Refused on the 6th September 2004. Appeal dismissed

6.2 Change of use of ground floor to dance studio with living accommodation over (35325) Granted with conditions on the 9th September 1987.

6.3 Additional use of the existing ground floor dance studio (Use Class D2 ) as café (Use Class A3), extraction flue (99105) Granted with conditions on the 3rd April 2013

## **7 PARISH / TOWN COUNCIL COMMENTS**

Totton Town Council: Recommend refusal - This application is very similar to a previous application which was rejected in 2015. The key issues regarding that application still remain. The loss of ground floor commercial frontage is strongly objected to by the Town Council in accordance with the planning policy. Also the amenity and quality of three flats in this location would be very poor.

## **8 COUNCILLOR COMMENTS**

Councillor David Harrison requests Committee consideration

## **9 CONSULTEE COMMENTS**

Valuer: Given the prominence of this property, the near 100% occupancy rate in the locality and the condition that the owner has chosen to present the property in, it is considered that the situation has not changed since the previous application back in 2016 and that lack of demand for business or assembly type uses is not proven.

## **10 REPRESENTATIONS RECEIVED**

None

## **11 CRIME & DISORDER IMPLICATIONS**

No relevant considerations

## **12 LOCAL FINANCE CONSIDERATIONS**

If this development is granted permission, the Council will receive New Homes Bonus £3672 in each of the following four years, subject to the following conditions being met:

- a) The dwellings the subject of this permission are completed, and
- b) The total number of dwellings completed in the relevant year exceeds 0.4% of the total number of existing dwellings in the District.

Based on the information provided at the time of this report this development has a CIL liability of £16,368.00.

### 13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

No pre application advice was sought and there are objections in principle to the loss of the ground floor of the building to residential uses. Revised plans would not overcome these principle concerns.

### 14 ASSESSMENT

- 14.1 The site is located within the town centre of Totton and the existing building occupies a prominent position at the corner of High Street and Eling Lane. The existing building is very attractive and is described in the adopted Totton Town Centre Urban Design Framework as a 'Landmark Building'. The existing two storey building on the site was used as a Dance Studio on the ground floor with residential accommodation on the first floor for many years. Planning permission was granted in 2012 for a cafe on the ground floor in addition to the Dance Studio, however, it is not clear whether the cafe use was implemented. The ground floor is currently vacant.
- 14.2 The building occupies a prominent corner position in quite a large secondary commercial area that provides a base for a wide range of retail and service based businesses. This includes everything from specialist traders, hair and beauty salons, employment agents, professional services and a range of hot food outlets. Business concerns

in this locality are distributed across High Street / Rumbridge Street and Eling Lane / Junction Road forming a distinct area a short walk from Totton town centre.

- 14.3 A planning application was refused in 2015 under planning reference 15/11697 for the conversion of the ground floor into 3 flats. The application was refused on the grounds that the proposed change of use of the ground floor of the building to residential uses would have resulted in the loss of an active ground floor frontage and loss of appropriate non retail uses which play an important role in the sustainability of the town centre in providing local shopping, leisure, commercial and service facilities. Moreover, it was considered that the site is capable of being satisfactorily used for alternative business or employment uses in this prominent town centre location. For this reason, the proposal is contrary to Policies CS20 of the Core Strategy for New Forest District outside the National Park, Policy DM16 of the Local Plan Part 2 Sites and Development Management Document. An appeal was lodged but subsequently withdrawn.
- 14.4 This planning application is to use the ground floor of the premises as three flats. It is also proposed to carry out fenestration alterations, retain the car parking arrangements and provide a bin store. This application is supported with a Design and Access Statement and marketing details. The applicant has submitted a marketing appraisal and design and access statement which states that the proposal would provide much needed residential uses which would be wholly appropriate in this area and would complement the other uses including shops. There is an empty building on the corner of Rumbridge Street and Junction Road and there are other examples of empty boarded up shops. This current application is essentially identical to the previous submission. The main issues to consider are whether there have been any changes in circumstances at the site and the surrounding area policy.
- 14.5 There have not been any material changes in local plan policy. The only change in circumstances at the site is that the building is now vacant. As set out in the previous application, the site lies within Totton town centre but outside of any of the primary shopping areas and primary and secondary shopping frontages. The relevant policies to this application are Policy CS20 of the Core Strategy and Policy DM16 of Local Plan Part 2.
- 14.6 Policy CS20 seeks to maintain active ground floor frontages, within town centres, district centres and local centres with appropriate town centre uses. Policy DM16 specifically applies to town centre locations that sit outside of the primary shopping area, and primary and secondary shopping frontages, and states that residential development may be permitted where it does not result in the loss of retail, appropriate non-retail, or other employment or business uses, or sites which are capable of being satisfactorily used for an alternative business or employment use appropriate to a town centre location. Appropriate non-retail uses are defined in paragraph 2.93 and include leisure and entertainment uses such as cafés. The proposed change of use of the existing ground floor to residential would constitute an undesirable change of use and would result in the loss of appropriate non-retail uses. The building is capable of being satisfactorily used for an alternative business or employment use appropriate to a town centre.

- 14.7 Furthermore, the site is a ground floor unit in a prominent location on the corner of the interchange between High Street, Eling Lane and Rumbridge Street, and therefore has the potential to attract a reasonable level of footfall, offers a high level of prominence and visibility which could be attractive to a commercial occupier. The premises have been occupied by commercial/leisure uses for a considerable time and could continue to be so. It is probable that residential development of this site would have an adverse effect on the ground floor frontage and on the vitality of the area as a whole. This proposal is therefore contrary to policy CS20 and policy DM16.
- 14.8 The Council's Valuer has assessed the submitted marketing report and re-assessed the original comments provided in February 2016 and visited the site to see whether trading conditions have changed since the first application. Concerning the general demand for business premises in this location, there are only two other vacant premises in lettable condition in the Rumbridge St, Eling Lane, Junction Rd and High St area of Totton. The two properties comprise a small shop opposite the subject property but with no advertising sign or contact details and therefore possibly not available. The other vacant property is a standard size shop adjacent to the Co-op in Rumbridge St where the letting agent has informed that a letting is currently proceeding. Therefore the locality appears to have further proved its resilience in the current market and good demand from local business is clearly visible.
- 14.9 It should be noted that an application was recently refused under reference 17/10383 to demolish the existing building opposite the site at 4-6 Rumbridge Street and to construct a 3-storey building containing a ground floor commercial unit (in Use Classes A1, A2 or A3), and 8 flats on upper floors. The application was only refused on design grounds. An appeal was lodged and dismissed. It is considered that this could be brought forward for development with commercial use on the ground floor, subject to resolving design issues.
- 14.10 It should also be noted that there is a vacant unit at No 23A Rumbridge Street. No 23A was a former shop and there is a current Prior Approval Application being considered to use the unit as a cafe. This highlights that although there are vacant units within the vicinity of the site, there are proposals to provide commercial uses at ground floor.
- 14.11 The vendors agent puts forward the view that the fact that they have been unable to secure a letting demonstrates that there is no demand, however the Council's Valuer considers that the reason no tenant(s) have been secured is that the building is not in lettable condition as can clearly be seen from the photographs of the interior shown on the agents letting details (as reproduced in their report). The unit has been completely stripped, which would make it unattractive for potential business users. For a case to be made that there is no business demand the property would need to have been marketed in tenable condition as the time delay caused by essential building works and the substantial cost of the works would not be manageable by small local concerns that typically occupy premises in tertiary locations.
- 14.12 Given the prominence of this property, the near 100% occupancy rate in the locality and the condition that the owner has chosen to present the property in, the Council's Valuer considers that the situation has not changed since the previous application back in 2016 and that lack of demand for business or assembly type uses is not proven.

- 14.13 On this basis, while the premises has been marketed, this does not override the policy objection that a residential use on the ground floor would not be desirable in this prominent town centre location and that the unit could be used for a number of alternative retail and appropriate non retail uses.
- 14.14 Visually the only changes to the appearance of the building are two ground floor windows on the rear elevation and a new doorway on the front elevation. No other changes are proposed. It is considered that these changes would be acceptable. The proposal would not provide any amenity space for the residents. The whole area to the rear of the building would be used for car parking. Flat B would have views only onto the car parking, whereas the two other flats proposed would face the two roads. It is considered that the proposal would not provide a high quality living environment to these residents. However, whilst this is a concern, a reason for refusal on this basis would not be sustainable at appeal.
- 14.15 While the Highway Authority have not been consulted, the site is sustainably located close to all the required amenities and facilities and close to public transport including bus and rail.
- 14.16 The level of housing need in the District is sufficiently above the level of housing supply to know that a five year supply of housing land is currently unavailable. This situation will be addressed through the emerging local plan, but until the new Local Plan is adopted, paragraph 14 of the NPPF advises that planning permission for housing development should normally be granted unless any planning harm identified would "*significantly and demonstrably outweigh the benefits*". This is known as the 'tilted balance' in favour of sustainable development. In this case, it is considered that the adverse impacts of development set out above significantly and demonstrably outweigh the benefits.
- 14.17 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.18 In the light of recent changes to national planning policy, it is considered inappropriate to secure a contribution towards affordable housing in respect of schemes of 10 residential units or fewer. In essence, national planning guidance would now outweigh the Council's own policies on this particular issue.
- 14.19 In conclusion it is considered that loss of the commercial use of the ground floor of this building would have an adverse impact on the sustainability of this part of Totton.

14.20 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

### CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling Houses	186		186	186	£80/ sqm	£16,368.00 *
Subtotal:	£16,368.00					
Relief:	£0.00					
Total Payable:	£16,368.00					

\* The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the All-in Tender Index Price published by the Build Cost Information Service (BICS) and is:

$Net\ additional\ new\ build\ floor\ space\ (A) \times CIL\ Rate\ (R) \times Inflation\ Index\ (I)$

Where:

*A = the net area of floor space chargeable in square metres after deducting any existing floor space and any demolitions, where appropriate.*

*R = the levy rate as set in the Charging Schedule*

*I = All-in tender price index of construction costs in the year planning permission was granted, divided by the All-in tender price index for the year the Charging Schedule took effect. For 2017 this value is 1.1*

## 15. RECOMMENDATION

**Refuse**

**Reason(s) for Refusal:**

1. The proposed change of use of the existing ground floor unit to flats would constitute an undesirable change of use and would result in the loss of an active ground floor frontage and loss of appropriate non retail uses which play an important role in the sustainability of the town centre in providing local shopping, leisure, commercial and service facilities. Moreover, it is considered that the site is capable of being satisfactorily used for an alternative business or employment use in this prominent town centre location. For this reason, the proposal is contrary to Policies CS20 of the Core Strategy for New Forest District outside the National Park, Policy DM16 of the Local Plan Part 2 Sites and Development Management Document.

**Notes for inclusion on certificate:**

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

No pre application advice was sought and there are objections in principle to the loss of the ground floor of the building to residential uses. Revised plans would not overcome these principle concerns.

**Further Information:**

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**New Forest**  
DISTRICT COUNCIL

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**Planning Development  
Control Committee**

December 2017

Item No: 5g  
2 High Street  
Totton

17/11316  
SU3613

Scale 1:1250

N.B. If printing this plan from  
the internet, it will not be to  
scale.

