

## Officer Report on Planning Application: 17/02523/COU

<b>Proposal:</b>	The change of use of premises from Use Class A3 (restaurant) to a mixed use of A3 and A4 (drinking establishment)
<b>Site Address:</b>	98 Middle Street, Yeovil BA20 1NE
<b>Parish:</b>	Yeovil
<b>Yeovil (Central) Ward (SSDC Member)</b>	Cllr K Hussain Cllr A Kendall Cllr P Gubbins
<b>Recommending Case Officer:</b>	Andrew Collins – Planning Officer
<b>Target date:</b>	28th August 2017
<b>Applicant:</b>	Mr Tim Dodgson
<b>Agent: (no agent if blank)</b>	
<b>Application Type :</b>	Other Change Of Use

### REASON FOR REFERRAL TO COMMITTEE

This application is referred to the Area South Committee at the request of Cllrs Kendall and Hussein in agreement with the Area Chairman to fully consider the merits of the application.

### SITE DESCRIPTION AND PROPOSAL





The application site is located on the corner of Middle Street and Old Station Road. The site is within the defined town centre as detailed in the Local Plan.

The site is located opposite the existing pedestrian area and the existing Weatherspoons public house located at No. 97 Middle Street.

The property is currently vacant but was previously operated as a restaurant, with the property last used as an Indian restaurant.

Planning permission is now sought to change the use of the building to a mixed restaurant (A3) and drinking establishment (A4) use.

The application is supported with location, block and floor plans. The floor plans indicate the uses of the 3 floors of the building. The ground floor would be used mainly for the A4 use, the first floor the A3 use, the kitchen / staff area and the toilets for both A3 and A4 uses. The second floor would be used as residential accommodation.

## HISTORY

17/02524/ADV - The display of 2 No. internally illuminated fascia signs. - Pending Consideration

11/03904/FUL - The carrying out of alterations to shop fronts and the erection of railings - Application permitted with conditions - 13/12/2011

05/01997/S73 - The use of ground and 1st floor of premises as Chinese Restaurant with variation to condition 5 of Decision Notice 03/03024/COU (hours of opening) - Application permitted with conditions - 28/09/2005

04/01997/COU - The change of use of second floor of premises from Use Class B1 (Offices) to Use Class C3 (Residential) - Application permitted with conditions - 14/12/2004

03/03024/COU - The change of use of ground and 1st floor of premises from offices (Use Class A2) to Chinese restaurant (Use Class A3) - Application permitted with conditions - 22/12/2003

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

On the 5th March 2015 the South Somerset Local Plan (2006 - 2028) was adopted and constitutes the development plan. The most relevant policies are:-

Policies of the adopted South Somerset Local Plan (2006-2028)

SD1 - Sustainable Development

SS1 - Settlement Strategy

EP11 - Location of Main Town Centre Uses (The Sequential Approach)

EQ2 - General Development

One of the criteria is;

- Creating safe environments addressing crime prevention and community safety;

National Guidance

National Planning Policy Framework - March 2012

Chapter 1 - Building a Strong Competitive Economy

Chapter 2 - Ensuring the Vitality of Town Centres

Chapter 4 - Promoting Sustainable Transport

Paragraph 58; *"Planning policies and decisions should aim to ensure that developments:*

*- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;"*

Chapter 8 - Promoting Healthy Communities

Paragraph 69; *"Planning policies and decisions, in turn, should aim to achieve places which promote:*

*- safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion"*

## **REPRESENTATIONS**

Neighbouring properties to the site have been notified in writing and a site notice was displayed. No representations have been received.

## **CONSULTATIONS**

Yeovil Town Council - *"Recommend approval subject to obtaining an alcohol license."*

Somerset County Highways - Refers to standing advice.

SSDC Highways Consultant - *"The demand for parking and the servicing/delivery needs associated with the proposed use are unlikely to be significantly different to that of the extant use of the building. Therefore, no objection is raised."*

SSDC Environmental Protection - Has no comments to make.

SSDC Licensing - *"The premises formally known as Viceroy 2, does not have the benefit of a premises licence as this was surrendered last year. If the planning applicant wishes to provide any or all of the activities listed below, they will need to apply for a new premises licence:*

- *Supply of Alcohol*
- *Late Night Refreshment*
- *Regulated Entertainment*

*Please see link to our webpage <https://www.southsomerset.gov.uk/licensing,-permits,-registrations-and-notifications/premises-licence/>*

*The application fee for premises licence will depend on the non-domestic rateable value of the property and the same with the annual fee.*

*There is a mandatory condition attached to all premises licences where alcohol is sold, that there must be a designated premises supervisor and that person must hold a personal licence.*

*The premises are also within our cumulative impact area, which means that if any representations are received, then there will be a presumption that the licence will not be granted unless they can demonstrate that their business will not add to the cumulative impact already being experienced.*

*Please see link to our licensing policy [https://www.southsomerset.gov.uk/media/203001/licensing\\_policy\\_2014.pdf](https://www.southsomerset.gov.uk/media/203001/licensing_policy_2014.pdf)*

Police Crime Prevention Design Advisor - *Objects in principle.*

*Crime Prevention Design Advisor's (CPDA) working in partnership, have a responsibility for Crime Prevention through Environmental Design projects within the South Somerset area. As a Police Service we offer advice and guidance on how the built environment can influence crime and disorder to create safer communities addressing the potential of the fear of crime and anti-social behaviour.*

*Sections 58 and 69 of the National Planning Policy Framework March 2012 both require crime and disorder and fear of crime to be considered in the design stage of a development and ask for:-*

*"Safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion."*

*Guidance is given considering 'Crime Prevention through Environmental Design', 'Secured by Design' principles and 'Safer Places.*

**Comments**

- *Cumulative policy (Licensing) in force resulting from the levels of crime and disorder*
- *Capacity and operating hours may add to existing cumulative impact problems in the area, due to the release of a large number of patrons onto the street at youth threshold (9pm) and closing time*
- *Safeguarding - Additional young people being introduced to this area after 9 pm (time*

*suggested that premises will be closed to under 18's) could increase the risk of them becoming victims*

- *Comment from Inspector Tim Coombe 'As the Inspector for Neighbourhood Policing I would suggest that an additional mixed use A3 and A4 drinking establishment at 98 Middle Street could impact and increase levels of crime and disorder in the immediate area. A cumulative impact policy (2015- 18) exists in this area due to existing levels of crime and disorder''*

## **CONSIDERATIONS**

### Principle

This application is for a mixed A3 and A4 use. Therefore the proposed use is considered to be sui generis. The premises have been operating as an A3 use and therefore the A3 use is acceptable. The site is located within the town centre and an A4 use could contribute to the night time economy. In general terms the principle is accepted but this is caveated on the basis of other material considerations.

### Visual Amenity

No external alterations are proposed to the building and as such the proposals do not adversely affect either visual amenity.

### Residential Amenity / Crime Prevention and Community Safety

No external alterations are proposed. The environmental protection officer has no objections to the proposals.

Opening hours are detailed in the application form but it is not considered necessary from a planning point of view to impose a condition that restricts these hours. Any control of hours would have to be determined under the licensing regime.

Notwithstanding these comments, the Licensing Officer and Police have both raised concerns over the application. It is detailed that the site is located within a cumulative policy area from a licensing perspective. In addition the Police in their comments state that there are already existing levels of crime and disorder in the area. Therefore due to these strong levels of objection concerning safe environments addressing crime prevention and community safety the proposal is contrary to Policy EQ2 and paragraphs 58 and 69 of the NPPF.

### Highways

The site is located within the town centre and the proposed use is not considered to result in any difference to servicing / delivering needs and as such the proposals are considered to not adversely affect highway safety and comply with policies TA5.

### Planning Balance

The application form details that the use would employ 4 full time and 2 part time staff and it is not doubted that the proposal could contribute to the night time economy with an enhancement to the vitality of the town centre. However this needs to be balanced on the current constraints of the site including the licensing cumulative policy and the current issues in the area. Due to the strong objection from the police, on the proposal this has resulted in more weight being given to safe communities and crime prevention. As such the proposal fails to comply with Policy EQ2 and the paragraphs 58 and 69 of the NPPF.

## **RECOMMENDATION**

Refuse permission

### **SUBJECT TO THE FOLLOWING:**

01. The proposal by reason of the proposed A4 use will result in an unsafe environment that does not address crime prevention in an area already identified as a problem, to the detriment of the fear of crime, quality of life and community cohesion. As such the proposal is contrary to Policy EQ2 of the adopted South Somerset Local Plan (2006 - 2028) and the aims and objectives of the NPPF, especially paragraphs 58 and 69.

### **Informatives:**

01. In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by;
  - offering a pre-application advice service, and
  - as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions

In this case, the applicant/agent did not take the opportunity to enter into pre-application discussions and there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.