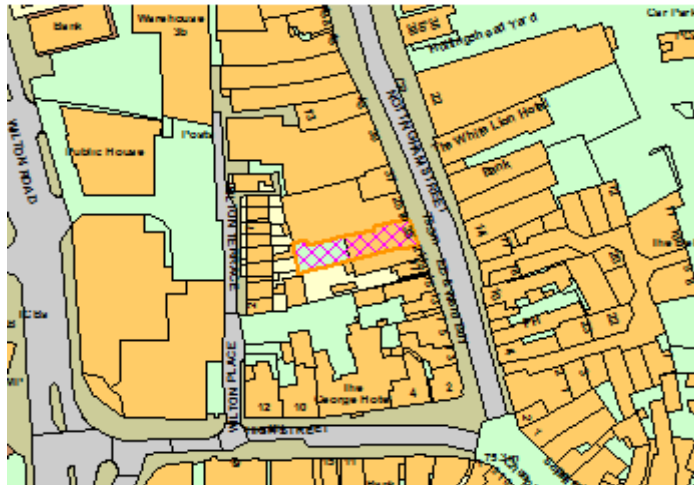


Reference: 14/00859/COU
Date submitted: 21.10.14
Applicant: D & A (2149) Limited.
Location: Wilkinson Store, 25-31 Nottingham Street, Melton Mowbray.
Proposal: Proposed change of use from A1 (retail) to A3 (restaurant).



Proposal :-

This application proposes the change of use from A1 (retail) to A3 (restaurant). The sub-division of the units to create this smaller unit is subject of the application 14/00860/FUL.

It is considered the main issues relating to the proposal are:-

- **The principle of the change of use;**
- **The impact on the residential amenities of occupiers of neighbouring properties.**

The application is to be heard by the Development Committee due to the number of representations submitted.

Relevant History:-

There is a detailed history on the site. Relevant history includes:

99/00222/FUL approved the demolition of the retail unit, retaining the façade and the construction of a new retail unit with first second floor offices and alterations to the shopfront.

09/00556/ADV approved two illuminated fascia signs and one illuminated projecting sign.

13/00813/FUL approved a first floor extension and alterations to the shopfront (33-35 Nottingham Street).

14/00860/FUL is pending and proposes shop front alterations, the demolition of the lift shaft and first floor lift motor room and the erection of a first floor link corridor to facilitate the reinstatement of two separate retail units.

Planning Policies:-

Melton Local Plan (saved policies):

Policies OS1 and BE1 allow for development within the town boundary providing that:-

- the form, character and appearance of the settlement is not adversely affected;
- the form, size, scale, mass, materials and architectural detailing of the development is in keeping with its locality;
- the development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity; and,
- satisfactory access and parking provision can be made available.

Policy S4 states permission will be granted for the use of ground floor areas of buildings along the secondary shopping frontage for uses including shops (A1). Permission will be granted for A3 uses provided the total proportion of non-retail frontage including existing, committed and proposed, would not exceed 50% of any length of street frontage shown on the proposals map and a continuous length of non-retail frontage exceeding three shop units or 15 metres would not be created.

NPPF:

The National Planning Policy Framework introduces a ‘presumption in favour of sustainable development’ meaning:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that whilst the NPPF does not automatically render older policies obsolete, where they are in conflict the NPPF should prevail. It also offers advice on the weight to be given to ‘emerging’ policy (i.e. the Local Plan) depending on its stage of preparation, extent of unresolved (disputed) issues and compatibility with the NPPF.

The NPPF introduces three dimensions to the term Sustainable Development: Economic, Social and Environmental: It also establishes 12 core planning principles against which proposals should be judged. Relevant to this application are those to:

- not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- proactively drive and support sustainable economic development to deliver business and thriving local places.

On Specific issues it advises:

Promoting Healthy Communities

- Provide local services to enhance the sustainability of communities and ensure that established facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the community;

Conserving and enhancing the historic environment

Paragraph 131 states that in determining planning applications, local planning authorities should take account of:

- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness

At paragraph 132 the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

Paragraph 137 offers further advice for development within the conservation areas, and within the settings of heritage assets, and states that local planning authorities should look for opportunities for new developments in these areas to enhance or better reveal their significance. Where proposals preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset, they should be treated favourably.

Consultations:-

Consultation Response	Assessment of Head of Regulatory Services
<p>Melton Mowbray and District Civic Society – The NPPF notes local planning authorities should recognize town centres at the heart of their communities and pursue policies to support their vitality and promote competitive town centres that provide customer choice and a diverse retail offer and which reflects the individuality of town centres. The proposed sub division and change of use would be contrary to the NPPF as customer choice would be reduced, allowing this would reduce properties available for medium sized outlets such as Wilkinson and although there are a number of vacant retail spaces in the town centre these are too small to satisfy the needs of retailers such as Wilkinsons and the town already has a disproportionate number of restaurants.</p>	<p>The application relates to the change of use of the unit from A1 (retail) to A3 (restaurant). The unit forms part of the Secondary Shopping Frontage and Policy S4 supports A3 uses provided the non-retail proportion of the whole shopping frontage would not exceed 50% and a continuous length of non-retail frontages would exceed 15 metres or three shop units.</p> <p>Taking the proposed unit (25-31 Nottingham Street) as separate from 33-35, assuming permission is granted under 14/00860/FUL to sub-divide the store into two units, the length of Secondary Shopping Frontage comprises 17 units. Of those 17, to include the host unit as an A3 use, the mix comprises the following:</p> <ul style="list-style-type: none"> • 10 x A1 (retail) uses (to include the shopping mall which has been classed as A1 although other uses are present); • 3 x A2 (professional and financial); • 1 x sui generis (amusement arcade); • 3 x A3. <p>As such the proportion of non-retail uses within the frontage would comprise 41% including the</p>

	<p>proposed A3 use. The continuous length of non-retail frontages would also not exceed 15 metres following the change of use to A3 and the proposal therefore complies with Policy S4.</p> <p>The NPPF has been introduced since that policy was adopted and generally seeks to promote sustainable economic development. Although the loss of a larger unit is noted it is not considered Policy S4, or the NPPF, provides grounds to resist the subdivision of the unit or the change of use to A3 of part of the unit. Customer choice could potentially be increased through the introduction of a further unit in the town centre.</p> <p>It is acknowledged that the granting of planning permission and the carrying out of the works proposed could make the adjacent retail unit too small to be suitable for an operator such as Wilkinson's. Whilst this is noted the application relates to the change of use of part of the current unit and it is not considered that the loss of a larger retail unit provides adequate grounds for refusing the proposed A3 use as the proposal complies with Policy S4 and the general thrust of the NPPF.</p> <p>No evidence or explanation has been provided to support the claim that there is a disproportionate number of restaurants, e.g. by reference to an acceptable 'measure' or comparison with other locations. More critically, there is no evidence that the number of A3 uses is harmful to the town centre within the terms anticipated by the NPPF.</p>
<p>Environmental Health – No objection subject to conditions relating to a scheme for the extraction, treatment and dispersal of fumes and odours to be approved by the Council and an assessment to show the rating level of any external plant or equipment will be at background level or below following the submission of details.</p>	<p>Noted. No details of plant, equipment or extraction methods have been submitted and conditions can be imposed to reflect the Environmental Health comments. It is considered the A3 use could take place without detriment to the amenities of nearby buildings and occupiers given the nature of the proposal and the town centre location.</p>
<p>Highway Authority – No comments.</p>	<p>Noted.</p>

Representations:

A site notice was posted, the application was advertised and neighbouring properties consulted. 18 representations have been received raising objections.

Representations	Assessment of Head of Regulatory Services
<p>The proposal is detrimental to the immediate economic prosperity within the area of the proposed change of use and the area generally.</p> <p>Reduction in the size of the larger unit would likely mean Wilkinson's would look at relocating due to the size constraints and business viability or leave the town altogether, they are a national retailer and footfall anchor and their leaving would lead to a</p>	<p>The proposal relates to the change of use of the premises to A3 (restaurant). Policy S4 seeks to control the use of units within the town and the proposal complies with that policy meeting the thresholds that are designed to protect the retail element of the Secondary Shopping Frontage.</p> <p>The policy requires an assessment only of the particular shopping frontage and although it is</p>

<p>further fragmentation of the town and could lead to other units struggling through the loss of footfall, it would go against the 2007 Masterplan which states Nottingham Street should avoid gaps in retailing, there are a large number of empty smaller units especially in the Bell Centre and there is a community need for clothes shops and different suppliers. The proposal could result in the loss of Wilkinson's retailer following the loss of Blockbuster in 2013 and shoppers could be lost to other locations. Would lead people to shop elsewhere where there is already more choice and would not meet the heritage or retail requirements of the town.</p> <p>There may be a saturation of A3 premises with 35 food and drink premises in the town centre, 17 of which could be classed as restaurants, a new bistro/café has just opened up next door, the proposal would not enhance new business or offer further choice and could lead to the loss of jobs. There are already a large number of dining establishments and the proposal could affect the viability of the adjoining restaurant.</p> <p>Melton lends itself to a mix of leading national multiples but also retains its traditional atmosphere with a demand for smaller traditional shops, this combination provides an exciting mix with great retail choice catering for a wide range of interests and tastes.</p> <p>The local community have proved that by continuing to shop at Wilkinsons over the last 51 years there is a demand for a large value and variety retailer and by approving the change of use this will impact on the availability of what the store can offer and lead to the loss of providing jobs to local people; Wilkinson's currently employ 39 full and part time team members.</p>	<p>acknowledged there are significant provision of A3 to A5 uses within the town centre there is not a dominance of such uses within this shopping frontage or overall and a satisfactory mix, within the terms of Policy S4, of uses remain.</p> <p>The proposal is not considered to have an impact on the built heritage of the town given that the proposal relates only to a change of use.</p>
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Considerations not raised through Representations.

<p>Visual Considerations:</p>	<p>Assessment of Head of Regulatory Services</p> <p>Members are reminded of the general duty to give special attention to the desirability of preserving or enhancing the character or appearance of Conservation areas and setting of listed buildings (s66 and 72 of the LB and CA Act 1990). The site is within the conservation area with listed buildings adjacent.</p> <p>The change of use would not result in any physical alterations to the building when viewed from the public realm other than the alterations to the shopfronts. These changes would be relatively limited and would be sympathetic to the building, street scene and character and appearance of the conservation area by maintaining the traditional</p>
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	<p>detailing of the shopfronts.</p> <p>As such the conservation area, street scene and the setting of adjacent listed buildings would not be harmed.</p> <p>The proposals would therefore comply with policies OS1 and BE1 of the Melton Local Plan which seek to ensure development is in keeping with the character of the locality, including heritage assets. The intentions of these policies are compliant with the NPPF which places emphasis on requiring good design.</p>
<p>Residential Amenity:</p>	<p>The proposed change of use from retail to A3 would have an impact on neighbouring properties through the introduction of a use which would potentially operate beyond traditional retail hours and could create a greater level of noise, disturbance and odour.</p> <p>However, Environmental Health raised no objection subject to a condition relating to the control of fumes, odour and noise. Furthermore, the property occupies a town centre location and it is not considered the proposed use would have an undue adverse impact on the amenities of neighbouring properties. A condition requiring details of the extraction, treatment and dispersal of fumes and odour, together with controlling noise from any plant, can be imposed and would adequately protect the amenity of neighbouring properties.</p> <p>It is therefore considered the proposals would not have an adverse impact on the amenities of neighbouring properties and therefore complies with policies OS1 and BE1 of the Melton Local Plan and the NPPF which lists the amenities of existing and future occupants as a core planning principle.</p>

Conclusion

The proposal relates to the change of use of a unit from A1 (retail) to A3 (restaurant). Policy S4 allows for non-retail uses within Secondary Shopping Frontages provided the non-retail uses would not exceed 50% of the whole frontage or result in a continuous frontage of three units or 15 metres of non-retail uses. The proposal complies with this policy and Policy S4 is considered to be consistent with the intentions of the NPPF. Notwithstanding the objections received the mix of uses along the western side of Nottingham Street would remain satisfactory. The proposal would also be acceptable in terms of visual and residential amenity and there would be no highway safety implications. Whilst the proposed sub-division of the larger store would remove a retail unit from the town centre this would be balanced by the creation of two smaller units which would generate wider choice and could effectively enhance the vitality and viability of the town centre retail and recreation provision. Accordingly the proposal is recommended for approval.

RECOMMENDATION:- Permit, subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be constructed in accordance with the following plans received by the Local Planning Authority 21.10.14: 1821/02, 1821/SK01 and 1821/SK02.
3. The use hereby approved shall not commence until the following have been complied with:
 - a) A scheme for the extraction, treatment and dispersal of fumes and odours shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the use commencing and shall thereafter be retained;
 - b) An assessment to show the rating level of any external plant and equipment will be at the background level or below shall be submitted and approved in writing by the Local Planning Authority. Any external plant and equipment shall thereafter not exceed the background level.

The reasons for the conditions are:

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt.
3. In the interests of residential amenity.

Officer to contact: **Mr Joe Mitson**

Date: 4.12.2014