

**5m 3/10/1742/FP – Change of use from retail (A1) to restaurant (A3), new shop front and plant equipment to rear at 16 North Street, Bishop’s Stortford, CM23 2LL for Café Rouge Restaurants.**

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**Date of Receipt:** 01.10.2010

**Type:** Full – Minor

**Parish:** BISHOP’S STORTFORD

**Ward:** BISHOP’S STORTFORD – MEADS

**RECOMMENDATION**

That planning permission be **REFUSED** for the following reason:-

1. The proposal would result in the loss of a retail unit, and would thereby be detrimental to the vitality and viability of the town centre. If permitted it would be contrary to policy STC2 of the East Herts Local Plan Second Review April 2007, which seeks to retain retail uses within primary shopping frontages wherein the site is located, as defined on the Proposals Map.

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**1.0 Background**

- 1.1 The application site is shown on the attached OS extract.
- 1.2 No.16 North Street is a 3 storey mid-terraced, cream rendered property that fronts onto the back edge of the pavement and is sited within the Bishop’s Stortford Conservation Area. North Street is sited within the Primary Shopping Frontage as identified in the Local Plan. The property is currently vacant and has an existing A1 (retail) use.
- 1.3 This application seeks permission to change the use of the existing vacant A1 retail unit to an A3 – restaurant use. The ground floor would be subdivided to accommodate a kitchen area at the rear of the property with the main dining area and separate bar occupying the remainder of the ground floor. At first floor level, staff facilities and WCs would be provided. The proposal also involves alterations to the existing shop front to include new glazing, replacing the existing brick plinth with a red stall riser and replacing the existing recessed central timber access doors with a single pedestrian door, also painted red. Five new condenser units and a kitchen flue are proposed at the rear of the property.

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### **2.0 Site History**

- 2.1 Planning permission was recently refused under LPA reference 3/10/1340/FP to change the use of the property from retail (A1) to restaurant (A3), with new shop front and plant equipment to the rear of the property. This application was refused following concerns that the loss of an A1 unit within the Primary shopping frontage would be detrimental to the vitality and viability of the town. This application was also refused because the proposed alterations to the shop front were considered to be detrimental to the character and appearance of the existing building, the street scene and Bishop's Stortford Conservation Area. The development would have been contrary to policies STC2, ENV1 and BH14 of the East Herts Local Plan and PPS5: Planning for the Historic Environment.
- 2.2 Members should note that the previously refused application is currently under appeal.

### **3.0 Consultation Responses**

- 3.1 The Council's Conservation Officer comments that the historic significance and architectural value of No16 warrants its designation as a non-designated heritage asset within the historic core of North Street. The Conservation Officer further comments that the alterations to the shop front would now be of a design and materials of construction that would be in keeping with the existing historic architectural character and appearance of the building and would preserve the setting of the adjacent Listed Buildings and the character and appearance of the Bishop's Stortford Conservation Area. Conservation also considers that due to the size and siting of the proposed plant equipment, it would have little impact upon the character and appearance of the building or the wider area. Approval of the application is therefore recommended.
- 3.2 Environmental Health comment that should planning permission be granted, conditions regarding minimising the noise of the extractor units, hours of construction works and the safe removal of any asbestos found should be included.

### **4.0 Town Council Representations**

- 4.1 Bishop's Stortford Town Council raised no objections to this proposal.

**5.0 Other Representations**

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.
- 5.2 No letters of representation have been received.

**6.0 Policy**

- 6.1 The relevant 'saved' Local Plan policies in these applications include the following:-

STC2	Primary Shopping Frontages
ENV1	Design and Environmental Quality
BH14	Shopfronts in Conservation Areas

In addition to the above it is considered that Planning Policy Statement 4: Planning for Sustainable Economic Growth and PPS5: Planning for the Historic Environment form a material consideration in the determination of this application.

**7.0 Considerations**

- 7.1 The main consideration in this instance is the loss of an A1 retail unit within the Primary Shopping Frontage and its impact upon the vitality and viability upon Bishop's Stortford town centre. In respect of the proposed alterations to the shop front and the erection of plant equipment to the rear of the property, the main considerations are the impact of the proposal upon the character and appearance of the existing building; the impact of the proposal upon the historic setting of the adjacent Grade II Listed Buildings; the impact of the proposal on the character and appearance of the Conservation Area and the impact on the amenities of neighbouring residential occupiers.

**Principle of Development – change of use**

- 7.2 Turning first to the proposed use of building which would result in the loss of a retail unit, Policy STC2 of the Local Plan does not permit the loss of shop (A1) uses with the Primary Shopping Frontage. The preface to this policy highlights that the Council wishes to maintain a strong shopping presence within its larger centres for the viability of businesses. Therefore, this application to change the use of the building to a non-shop, A3 use is contrary to Local Plan Policy. It is therefore for the applicant to demonstrate other material considerations which may outweigh this policy consideration.

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- 7.3 The applicant has outlined in the submitted Planning Statement that there are special circumstances which justify an exception to Policy STC2 of the Local Plan. The applicant states that Policy STC2 of the Local Plan is inflexible. The applicant also outlines that they do not consider the location of No16 to be within a primary location when compared to what they consider to be 'the town's principal shopping frontage'.
- 7.4 Officers however consider that the retail predominance of Primary Shopping Frontages should be maintained, which is reflected in the ridged approach of Policy STC2. The preface to this policy highlights that the Council wishes to maintain a strong shopping presence within its larger centres for the viability of businesses and the convenience of shoppers who rely on them. It is recognised that a complementary role can be played by non-shopping activities, including professional and financial services, restaurants and public houses and even medical services, which tend to be allocated within the more flexible Secondary Shopping Frontages but not within Primary Shopping Frontages.
- 7.5 The current occupancy of this Primary Shopping Frontage (No2/4 North Street – No34 North Street) is 8 A1 retail units and 7 non-retail units which are shown in the following table: -

Address	Use
No 2/4 North Street	A3
No 8 North Street	A2
No 10 North Street	A2
No 12 North Street	A2
No 14 North Street	A1
No 16 North Street	A1
No 18 North Street	A2
No 20 North Street	A2
No 22 North Street	A1
No 24 North Street	A1
No 26 North Street	A1
No 1 Florence Walk	A3
No 30 North Street	A1
No 32 North Street	A1
No 34 North Street	A1

This represents an existing 53% retail provision. If the proposal to change the use of No16 from a retail unit to a restaurant was granted, this would result in a ratio of 8 retail to 8 non-retail, which is 50%. Whilst it is evident that there is already provision of non-shop uses within this

part of the Primary Shopping Frontage, this is not a material reason to permit another non-retail unit within North Street which would, in Officers opinion, have a harmful impact upon the success of this part of Bishop's Stortford town centre. Officers consider that the loss of another retail unit in this location would result in an unacceptable concentration of non-shop uses in conflict with policy STC2 and would have a harmful effect on the vitality and viability of the town centre. Whilst the applicant suggests in the submitted design and access statement that North Street is not part of the core of the town centre, Officers consider that North Street does form an important function as part of Bishop's Stortford town centre.

- 7.6 The aforementioned ratio of shop (A1) to non-shop uses shows that the proportion of shopping uses is finely balanced in this location, and the loss of a further retail unit would be likely to erode the retail character and vitality of Bishop's Stortford town centre. Officers believe that the introduction of another non-retail use in this part of Bishop's Stortford would therefore lead to the decline of an active shopping frontage, adversely impacting on the vitality of the town centre.
- 7.7 The Planning Statement submitted in support of the application refers to a Retail and Town Centre Study (2008) which was carried out by Chase and Partners on instruction from East Herts Council. This study reviewed the designated Primary and Secondary Shopping Frontages within the town centres of East Herts. Contrary to the applicant's claim, this study examined the retail health of Bishop's Stortford town centre, assessing it against indicators of vitality and viability. It is important to note that the study found that the existing retail policies of the Local Plan are appropriate and have struck the right balance between protecting the core retailing areas from non-retail uses. It is important for Members to note that this study concludes that the current designation of the Primary Shopping Frontages within Bishop's Stortford town centre are appropriate and logical and play a vital and viable role in maintaining the success of Bishop's Stortford town centre. Allowing a non-retail use in this location would therefore lead to a decline in the success and vitality of Bishop's Stortford and would run counter to the recommendations set out in the study.
- 7.8 The submitted Planning Statement also refers to an appeal decision that resulted in the loss of an A1 unit within Bishop's Stortford town centre. The Planning Inspectorate permitted the change of use of No.4 High Street from an A1 to an A2 use which is sited within the Secondary Shopping Frontage as identified in the Local Plan. Members should note that within Secondary Shopping Frontages, planning policy is more flexible and permits uses that do not fall within an A1 Use Class if they

do not result in an excessive concentration of non-shop uses. Officers do not consider therefore that this appeal decision is a material consideration that would outweigh policy considerations. A further comparison is made to the Café Nero premises in the town centre which was allowed on appeal. However, Officers consider that the ratio of A1 to non-A1 retail uses is poorer within this part of the centre and that there is a greater threat to the vitality and viability of this part of the centre therefore from further dilution of its shopping function.

- 7.9 The applicant has also submitted a footfall survey to support the application. The survey data is in respect of premises in Wokingham which has recently been occupied by Café Rouge. The applicant suggests that pedestrian footfall increased outside the premises after Café Rouge opened. The applicant believes that the presence of Café Rouge within Bishop's Stortford would also result in an increase in footfall within the locality. It should be noted however that the applicant has not submitted any information in respect of the pedestrian footfall that an A1 retail would draw. Officers are therefore unable to compare the Wokingham case study to the application site and cannot agree that Café Rouge will increase pedestrian footfall in the area without the necessary information.
- 7.10 The introduction of a non-retail unit into the Primary Shopping Frontage in this case will need to demonstrate that other material considerations justify a departure from this policy. Whilst it is acknowledged that the premises has been advertised by Savills since February 2010 (approximately 9 months) with no response, the Council do not consider that this length of advertisement period is sufficient to warrant a departure from Local Plan policy, particularly given the current financial climate in which it is taking longer for units to let. It is also important to note that the adjoining property, No14 North Street (a similar sized unit to No16) has recently been occupied by a clothes retailer (A1 use). This demonstrates that contrary to the applicant's aforementioned submission, there is a demand for a retail (A1) use in this location. It is therefore considered that no overriding material considerations have been presented to overcome this policy objection.
- 7.11 It is also important to consider the requirements of National Planning Policy and in this instance, Planning Policy Statement 4: Planning for Sustainable Economic Growth which gives guidance in respect of economic development within the district. Policy EC3 within PPS4 outlines that at the local level, Councils should define the extent of the town centre and distinguish between realistically defined Primary and Secondary Frontages in designated areas and set policies that make clear which uses will be permitted in such locations. Furthermore, PPS4

makes it clear that non-shop (A1) uses would be expected to be found within Secondary Shopping Frontages, which national planning policy outlines provide greater opportunities for a diversity of uses. It is evident that PPS4 considers that it is important for Councils to plan for a strong retail mix which can significantly enhance the character and vibrancy of a centre. The Council therefore has a duty to sustain the vitality and viability of Bishop's Stortford town centre; something that permitting a non-shop (A1) use in this location would not uphold.

#### External alterations

7.12 Turning firstly to the impact of the proposed alterations to the shop front and their impact upon the character and appearance of the existing building, the setting of the adjacent Grade II Listed Buildings and the character and appearance of the Bishop's Stortford Conservation Area. The Council's Conservation Officer has raised no objections to the proposed shop front alterations and Officers note that it is now considered that the increased height of the stall riser and the retention of the centrally recessed door would overcome the second reason for refusal within LPA ref. 3/10/1340/FP. Taking the above considerations into account, it is considered that the proposal would be in keeping with the architectural character and appearance of the existing building, would preserve the setting of the adjacent Grade II Listed buildings and would not have a detrimental impact upon the character and appearance of the Bishop's Stortford Conservation Area. This element of the proposal therefore accords with Policies ENV1 and BH14 of the Local Plan and Planning Policy Statement 5: Planning for the Historic Environment and overcomes the second reason for refusal within LPA ref. 3/10/1340/FP.

7.13 In respect of the proposed plant equipment, sited to the rear of the building, taking into account the recommendation of approval from the Conservation Officer and the appropriate size and siting of the proposed plant equipment, Officers do not consider that it would have a harmful impact upon the character and appearance of the building or the character and appearance of the Bishop's Stortford Conservation Area.

#### The impact on the amenities of neighbouring residential occupiers

7.14 With regards to any impact the proposal may have on the amenities of neighbouring properties, in line with Environmental Health's recommendation, Officers are satisfied that the necessary equipment can be provided to ventilate the property without unduly impacting on neighbouring properties, through the imposition of an appropriately worded condition. Furthermore, I am satisfied that the hours of opening-

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between 9am to 11.30 pm are unlikely to cause unacceptable levels of noise and disturbance that would be detrimental to the occupiers of nearby residential properties.

#### **8.0 Conclusion**

- 8.1 Having considered the above matters, it is Officers opinion that the applicant has not presented any material considerations that warrant a departure from Local Plan Policy. It is considered that a loss of a retail unit within this Primary Shopping Frontage would not be acceptable and would lead to the decline of an active shopping frontage, adversely impacting on the vitality and the viability of Bishop's Stortford town centre. The proposal would thereby be contrary to Policy STC2 of the East Herts Local Plan.
- 8.2 For this reason I recommend that planning permission be refused for the reason set out at the commencement of this report.