

5L 3/11/1380/FP – Change of use from A1 (retail) to use as tanning and beauty salon (sui generis) with wall mounted air conditioning unit at 96 South Street, Bishop’s Stortford, CM23 3BG for Mr S Vaughan.

Date of Receipt: 24.08.2011

Type: Full – Other

Parish: BISHOP’S STORTFORD

Ward: BISHOP’S STORTFORD – CENTRAL

RECOMMENDATION:

That planning permission be **GRANTED** subject to the following conditions:-

1. 1T12 – Three year time limit
2. 2E10 – Approved plans (WH110/06/25-01/P, WH110/06/85-100C, Plan 3, Photo 1, Photo 2)
3. Prior to the first use of the air conditioning units hereby approved, a scheme for the enclosure of the units with sound insulating materials and installation of the units with anti-vibration mountings shall be submitted to, and approved in writing by the Local Planning Authority, and thereafter implemented in accordance with the approved details.

Reason: To safeguard the amenities of those premises nearby the application from the transmission of structure borne sound, in accordance with Policies ENV1 and ENV24 of the East Herts Local Plan Second Review April 2007.

Directives:

1. This permission does not convey any consent, which may be required under the Town and Country Planning (Control of Advertisements) Regulations 2007. You are advised therefore to contact the Planning Department, Wallfields, Pegs Lane, Hertford, SG13 8EQ, Tel: 01279 655261, prior to displaying any advertisements at the premises.

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the saved policies of the East Herts Local Plan Second Review April 2007), and in particular policies SD2, STC3, ENV1, ENV24 and TR7. The balance of the considerations having regard to those policies and the limited harm associated with the proposed development is that permission should be granted.

1.0 Background:

- 1.1 The application site is located within the built-up area of Bishop's Stortford as shown on the attached OS extract.
- 1.2 The application property is situated on the ground floor of a four storey mixed use development along South Street. The development incorporates commercial premises at ground floor level and residential flats at first floor level and above. It should be noted that the existing and adjoining commercial properties (Nos. 94 and 96 South Street) which are designated for A1 shop use, are currently vacant.
- 1.3 The application seeks permission for the change of use from retail shop (A1) to tanning salon (sui generis). The existing glazed shop frontage would be retained and internal alterations would be made to accommodate 4no. sunbeds and other associated facilities. It should be noted that planning permission was granted at No. 94 South Street for the change of use from A1 retail to tanning salon (LPA Ref: 3/09/0746/FP). The applicant has indicated that the proposed change of use of the application property would enable Nos. 94 and 96 South Street to operate together as a single tanning salon business.

2.0 Site History:

- 2.1 As mentioned above, planning permission was granted at No. 94 South Street for the change of use of from A1 retail to tanning salon (LPA Ref: 3/09/0746/FP). It should also be noted that No. 96 South Street (the application property) was refused planning permission for the proposed change of use of from A1 retail to A5 hot food takeaway (LPA Ref: 3/10/0416/FP). This application was later dismissed on appeal as the Planning Inspector concluded that the proposed development would cause harm to the living conditions of local residents through an increase in the level of noise and disturbance, however, they did not consider that it would be harmful to the vitality of the town centre as a whole.

3.0 Consultation Responses:

- 3.1 County Highways does not wish to restrict the grant of permission and comment that given the town centre location and proximity of public transport and parking, this application for the change of use from retail to beauty salon is acceptable in a highway context.

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3.2 Environmental Health raised concerns that the installation of 2no. air conditioning units may give rise to complaints at adjoining or nearby noise and vibration sensitive dwellings. However, they conclude that any permission which the Planning Authority may give should include the following conditions: noise assessment; soundproofing/vibration control; no external lighting; refuse disposal facilities.

4.0 Town Council Representations:

4.1 Bishop's Stortford Town Council raised no objections.

5.0 Other Representations:

5.1 The application has been advertised by way of 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 this application include the following:

SD2	Settlement Hierarchy
STC3	Secondary Shopping Frontages
ENV1	Design and Environmental Quality
ENV24	Noise Generating Development
TR7	Car Parking Standards

7.0 Considerations:

7.1 The key considerations in the determination of this application will focus on the principle of the change of use and its impact on the vitality and viability of the town centre; the impact of the development on the amenities of local residential properties and highways considerations.

Principle of Development

7.2 The application site lies within the Secondary Shopping Frontage of Bishops Stortford wherein Policy STC3 states that proposals for changes of use falling within A1, A2, A3, A4, A5, C1, D1 and D2 uses will be permitted provided that this would not result in an excessive concentration of non-shop uses. The proposed change of use from A1 retail to tanning salon (sui generis) would not fall within the designated uses outlined in Policy STC3 and therefore would form a departure from

the Local Plan.

- 7.3 The preamble to Policy STC3 states that the District Council wishes to maintain a strong shopping presence within its town centres, for the viability of businesses and the convenience of shoppers who rely on them. It goes on to state that there is a complementary role to be played by non-shopping activities and many other uses, which are recognised as essential to the vitality and viability of town centres. In relation specifically to Secondary Shopping Frontages the preamble states that regard will be had to the character and function of that part of the shopping area and the overall proportion of non-shopping uses in determining applications involving the loss of shop units. Having regard therefore to these comments, it is necessary to consider whether a departure from policy would result in an excessive concentration of non-shop uses within this part of South Street and whether this would be detrimental to the vitality of the town centre.
- 7.4 It is acknowledged that planning permission was refused and later dismissed on appeal for the change of use from A1 retail to A5 hot food takeaway at the application property (LPA Ref: 3/10/0416/FP). It is noted that the Planning Inspector's report comments "I understand that the three vacant units (Nos. 90, 94, 96 South Street) have been marketed without success for two years. While I accept this may be partly attributable to the unfavourable economic climate, I have also noted the generally vibrant character of the primary shopping frontages with relatively few vacant shop units. In my judgement, the separation of these units from the main town centre means that the prospects for attracting genuine retail uses in this location are not good, and the continued vacancy of this block of units would do nothing to enhance the vitality of this part of the town centre". They go on to say that "for the reasons I have given I do not consider that it (the hot food takeaway) would be harmful to the vitality of this part of the town centre or the town centre as a whole and would therefore be consistent with the aims of saved Policy STC3". It is considered that the appeal decision would constitute a material consideration in the determination of this application and therefore I would attribute some weight to the Planning Inspector's considerations outlined in their report.
- 7.5 It is also considered that the Council's records show that the application site has been vacant for a significant period of time. Although the proposed change of use would result in the loss of an A1 shop use, it would enable the occupation of the premises, together with No. 94 South Street to create a large tanning salon business. The proposed tanning salon would also retain the existing glazed shopping frontage and therefore would maintain the appearance of a retail unit. Furthermore, the occupation of the premises would increase footfall in this part of

South Street which in turn would enhance the vitality of the town centre as a whole. Having regard therefore to the recent appeal decision and those considerations outlined above, it is considered that the proposal would not have a harmful effect on the balance of retail provision in this part of the town centre would be acceptable in this instance.

The impact of the proposed change of use on the amenities of local residents

- 7.6 It is noted that the application property is situated on the ground floor of a four storey mixed use development which includes residential apartments at first floor level and above. Whilst it is acknowledged that the application property is in close proximity to residential development, it is considered that the proposed hours of operation would be from 10am to 8pm Monday to Friday and 10am to 7pm on Saturdays. It is indicated that the shop would be closed on Sundays and Bank Holidays. It is therefore considered that the opening hours and associated activities of the proposed tanning salon would not differ significantly from a retail use, nor would the proposed use create such level of activity that would result in a detrimental impact on the amenities of nearby residential properties.
- 7.7 Turning to the proposed installation of air conditioning units within the southern (side) elevation of the building, it is noted that the previous planning application for the change of use from A1 retail to A5 hot food takeaway included the installation of an extractor grille in a similar position to the current air conditioning units (LPA Ref: 3/10/0416/FP). The Planning Inspector's report in relation to the appeal decision stated that "turning to the issue of cooking smells, it is clear that the proposed extraction outlet would be to the side of the premises and below the windows of some of the flats. The information submitted on the possible extraction system suggests that it may well be possible to eliminate much of the potential problem and the Council's Environmental Health Officer, while indicating that the location of the extraction outlet would not be ideal has suggested the imposition of detailed conditions rather than objecting to the proposal".
- 7.8 It is considered that the proposed air conditioning units which form the subject of the current application would facilitate the cooling of the building rather than extraction of cooking fumes and smells, therefore officers consider that the impact of the proposal on the amenities of nearby neighbouring occupiers would not be sufficient to warrant refusal of the application. Furthermore, it is considered that any noise and vibrations from the air conditioning units could be controlled by appropriate conditions as recommended by Environmental Health.

Highways/access considerations

7.9 There would be no alterations to the existing parking arrangements at the application site. County Highways comment that given the town centre location and proximity of public transport and parking, this application for the change of use from retail to beauty salon is acceptable in a highway context. Officers also consider that customers visiting the proposed tanning salon are likely to spend longer on the premises, which in turn reduces the likelihood of occasional parking in the service lay-by outside the application site. Furthermore, the longer opening hours would allow a steady number of customers to visit the premises, which would result in less frequent traffic movements during the working day. Having regard therefore to these considerations, the proposed tanning salon would not result in a significant increase in traffic movements within the town centre, and would not be detrimental to highway safety and capacity in the area.

8.0 Conclusion:

8.1 In summary, it is considered that the proposed change of use from A1 retail to tanning salon (sui generis) would be considered acceptable in this instance and would not be detrimental to the vitality and viability of this part of South Street or the town centre as a whole.

8.2 It is therefore considered that there are circumstances in this case to allow permission to be granted contrary to Policy STC3 of the East Herts Local Plan, and it is recommended that permission be granted subject to the condition set out above.