

APPLICATION: MA/12/0472 Date: 12 March 2012 Received: 13 March 2012

APPLICANT: Abacus Accounting Ltd

LOCATION: LYNDEAN HOUSE, 30, ALBION PLACE, MAIDSTONE, KENT, ME14 5DZ

PARISH: Maidstone

PROPOSAL: Change of use of part of lower ground floor and single parking bay from office space (B1 Use) to shop (A1 Use) and installation of new shop front as shown on Design & Access statement and drawing nos. 4148-PD-001 & 002 received 13/03/12 and e-mail received 05/04/12.

AGENDA DATE: 19th April 2012

CASE OFFICER: Kathryn Altieri

The recommendation for this application is being reported to Committee for decision because:

- It is a departure from the Development Plan as it involves a non-B1 use in a designated employment area under Policy ED2 of the Maidstone Borough-Wide Local Plan 2000.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ED2, T13
- South East Plan 2009: CC1, CC6, BE1, T4, NRM10, RE3
- National Planning Policy Framework (March 2012)

## **2. HISTORY (relevant)**

- MA/79/1281 - Amended details of office building previously approved under MA/75/718 – approved/granted with conditions
- MA/75/0718 - Proposed office building gross floor area 925m<sup>2</sup> gross floor area with rear car park for 8 cars – approved/granted
- MA/74/0759 - The erection of a new office building – approved/granted
- 72/0585/MK1 - Change of use of existing dwelling house to W.R.V.S. centre for the administration of welfare activities – approved/granted with conditions

### **3. CONSULTATIONS**

- Environmental Health Officer:

Verbally confirmed there are no significant environmental health issues.

- KCC Highways Development Planner: Wishes to see the application refused;

- 1. Any development on this site without adequate provision for parking facilities would be likely to encourage the parking of vehicles on the public highway and would be likely to interfere with the free flow of traffic on the A249 (Sittingbourne Road) and prejudice the safety of road users.*
- 2. I am also concerned that there may not be sufficient space along the service road to the rear of the site for deliveries to be made and tracking diagrams should be provided to address this concern. Without adequate space for deliveries to be made from the service road, these vehicles would be likely to park on the highway, with the consequence of additional hazard to all users of the road.*

### **4. REPRESENTATIONS**

- 1 objection from 36 Albion Place raising concerns over parking provision.

### **5. CONSIDERATIONS**

#### **5.1 Site Description**

5.1.1 30 Albion place, known as Lyndean House, is the end building of a row of similar styled office buildings that front onto the A249 within the urban area, in walking distance of Maidstone town Centre. To the front of the building there is a signalled pedestrian crossing and railings along the footpath (close to the kerb); and the road is marked with double yellow lines. To the rear of the site there is a private access road and a parking area for Lyndean House. Sittingbourne Road public car park is some 85m to the north of the site and Union Street East public car park is some 40m to the west of the site. The surrounding area is largely characterised by three storey and four storey office buildings, although there is a public house sited immediately opposite the application site (to the west) and Union Street (to the north-west of the site) which is a residential street.

5.1.2 The site is within an 'area of economic activity' (ED2 [xix]), as shown by the Maidstone Borough-Wide Local Plan 2000 (MBWLP), which designates the site as suitable for uses with Use Class B1.

## 5.2 Proposal

5.2.1 The application is for the change of use of part of the lower ground floor from office space (B1 Use) to a convenience shop (A1 Use) and for the installation of a new shop front. The application site specifically relates to some 134m<sup>2</sup> of floor space at lower ground floor level with customer access available to both the front and rear of the building. The proposed shop front (some 6m wide and 3m in height) would be largely glazed with aluminium frames, and aluminium pilasters and stall riser.

## 5.3 Principle of Development

5.3.1 The application has been advertised as a departure from the Development Plan as it involves a non-B1 use in a designated employment area under saved policy ED2 of the (MBWLP) that states;

*"Planning permission will not be granted to redevelop or use vacant business, industrial, storage or distribution sites or premises for non-employment purposes unless the retention of the site or premises for employment use has been explored fully without success."*

5.3.2 Central government guidance and advice has changed since the (MBWLP) was adopted. Therefore, when determining this application, it is appropriate to give weight to the more recent central government guidance set out in the National Planning Policy Framework (March 2012).

5.3.3 Whilst this application is a departure from the (MBWLP), I consider the introduction of the National Planning Policy Framework (NPPF) to be a significant "*material consideration*" in the determination of this application. This is in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

5.3.4 Paragraph 14 of the NPPF states that there is a presumption in favour of sustainable development; and for decision-taking this means that where relevant policies of the Development Plan are out of date, the local authority should grant 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.*

5.3.5 With regards to saved policy ED2 of the MBWLP, the economic climate is now markedly different to how it was in 2000, when this policy was introduced; and I

can see no benefit in leaving the office unit empty (see section 5.4 of this report for the background/marketing of this unit). Indeed, the application site is in a very sustainable area and the proposed use is suited to its town centre location. Furthermore, under paragraph 17 of the NPPF, one of the core planning principles is to....*"proactively drive and support sustainable economic development....and respond positively to wider opportunities for growth"*.

5.3.6 Paragraph 19 of the NPPF starts by stating, *"The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth....and the planning should operate to encourage and not act as an impediment to sustainable growth."*

5.3.7 Significant weight needs to be placed on the need to support economic growth and given the merits of this application, I am of the view that a departure from B1 Use in this location would echo the sentiments of this guidance in *"widening the opportunities for growth"* in this location. I am satisfied that the proposed change of use would generate employment opportunities and so continue to be a form of economic development. I appreciate that it would be a relatively low level of employment, but it should be put into context that this proposal is only concerned with 134m<sup>2</sup> of floor space and the unit is currently empty, employing no-one.

5.3.8 This sentiment is echoed by policy RE3 of the South East Plan 2009, which states, *"In planning for the location, quantity and nature of employment land and premises, they will (LDF's) facilitate a flexible supply of land to meet the varying needs of the economic sector"*.

#### Supporting information from applicant

5.3.9 Due to the site's employment designation, the applicant needed to demonstrate that the retention of the site for B1 Use based employment purposes had been fully examined, without success.

5.3.10 According to the applicant, when the property was purchased in June 2010 (at auction), the ground floor (right sided unit), first and third floors were entirely empty. Although the exact date is unknown, the previous owners did advise that this vacant space had not been occupied for a considerable period of time. The situation has since been exacerbated as the left sided ground floor unit became empty in June 2011 and the right sided unit on the second floor was also became vacant in December 2011.

5.3.11 Cluttons undertook the task of letting the remaining office space available in the building in August 2010. At this time, a marketing board was erected onto the premises; full particulars were circulated to applicants on their database;

the premises were listed on both the Cluttons and EG Propertylink website; and adverts were put in the Kent Messenger on a bi-monthly basis. Little interest was generated and it is thought that there only some ten viewings over an eighteenth month period. During this time, no offers were made by any applicant. The main concerns for potential tenants were the building's lack of parking facilities and distances from amenities and public transport links, such as railway stations.

- 5.3.12 Further information submitted by the applicant and reportedly taken from a 2011 Cluttons appraisal, gave the following detail;

*"Vacancy levels in the town centre were estimated to be 445,000 sq ft in 2010, 401,000 sq ft in 2009, 229,000 sq ft in 2008 and 262,000 sq ft in 2007.....In conclusion the floor area of office accommodation currently available in Maidstone substantially exceeds the demand with the recent vacancy rate of around 20%.....This is not expected to improve in the foreseeable future and could remain depressed for the medium term."*

Assessment of supporting evidence

- 5.3.13 By reason of the amount of vacant office space (clearly evident specifically along Albion Place with several 'TO LET' signs up on existing office buildings), the submitted evidence does appear to show an over-provision of low quality office accommodation in and around Maidstone town centre. Furthermore, work carried out to date, by GVA Grimley on behalf of the Council (Employment Land Review - September 2009) showed that there was an excess of 50,000m<sup>2</sup> of vacant office space within the borough of Maidstone. I consider this study to be a material consideration in the determination of this planning application. No interest has been shown in this particular unit for almost a year and the other similar units for over two years; and what with the current economic climate, there is little indication that this form of economic growth is imminent.
- 5.3.14 In addition to this, the Council's Regeneration and Economic Development Manager confirmed that there was 30,708m<sup>2</sup> of vacant office stock within the town centre area (details given 10<sup>th</sup> Jan 2011).
- 5.3.15 Together with the existing over supply of office accommodation, there are several outstanding planning permissions that will further expand the provision within the town. As an example, the Springfield site will have three purpose built blocks equating to some 16,500m<sup>2</sup>. This shows that there is a clear over-supply of poor quality accommodation; and those interested in re-locating to, or enlarging within the town are seeking more high specification office space. I am satisfied that this economic information supports an alternative use of the site and consider it appropriate to assess the potential viability of this proposal to provide employment within other sectors.

- 5.3.16 To my mind, one of the objectives of Policy ED2 of the Local Plan and the National Planning Policy Framework is to designate and maintain areas for employment use. Clearly, a convenience shop would still maintain the building for employment use, albeit on a small scale. Furthermore, due to the modest floor area under consideration, I do not consider this change of use would significantly increase pressure for additional allocations on fresh land, especially bearing in mind the number of vacant offices in Albion Place and the wider Maidstone centre area.
- 5.3.17 Whilst the application is technically a departure from the Development Plan, in that it would not provide B1 employment accommodation, it would nonetheless fall within the scope of economic development, providing continued employment within a designated employment area (suited to a town centre use), where several units are vacant. This would be in line with central government guidance, where the need for adaptability and flexibility in the allocation of employment land is necessary. Therefore, on considering the supporting evidence, I consider the principle of this proposal to be acceptable.

#### **5.4 Impact upon highway safety**

- 5.4.1 Under this proposal, there would be one parking space for staff (to the rear of site), deliveries would be made to the rear and there would be no customer parking. However, it is my view that the majority of customers would be on foot, either from the surrounding offices, near-by residential streets or schools; or pedestrians simply passing through on their way in and out of Maidstone town centre.
- 5.4.2 If people were to drive to the proposal site, it is my view that they are unlikely to stop on the road in front of the shop, given its 'A' road classification and the double yellow lines, signalled pedestrian crossing and pavement railings immediately outside the building (preventing vehicles riding the kerb); and furthermore, there are also two public car parks within close proximity of the site where customers can park. In terms of delivery vehicles using the access road to the rear of the site, I am satisfied that this would not lead to any significant highway safety issues.
- 5.4.3 I do not consider the objections raised by the KCC Highways Development Planner as sufficient justification to refuse this application alone. Therefore, given the proposal's nature and sustainable location, I am of the view that it would not result in a development that would have an adverse impact on highway safety; and nor would it have a significant impact upon the parking provision or generate any further need.

## **5.5 Visual Impact**

- 5.5.1 In my opinion, the proposed shop front would be well proportioned and in alignment with the existing fenestration detail of the building and neighbouring buildings; its use of aluminium would fully respect the design of the existing metal framed windows to the building; and the large glazed elements would further reduce its overall visual impact. The alterations to the rear would not be visible from any public vantage point.
- 5.5.2 I am therefore of the view that the proposed shop front would not overwhelm or destroy the character of the existing building and nor would it significantly affect the character and appearance of the area or adjacent buildings.

## **5.6 Residential Amenity**

- 5.6.1 No residential property would be within 25m of the application site. I am of the view that this separation distance together with the nature of the proposal would result in a development that would not have a significant detrimental impact on the residential amenity in terms of general disturbance, loss of light/outlook or loss of privacy. To further safeguard the amenity of surrounding residents, I consider it reasonable to restrict the opening hours of the retail unit between the hours of 7am-11pm Mondays - Sundays (including Bank Holidays).

## **5.7 Other Matters**

- 5.7.1 Given the nature of the proposal, there are no significant issues with respect to landscaping, bio-diversity or drainage.

## **6. CONCLUSION**

- 6.1 With everything considered, I therefore conclude that it is appropriate and justified to depart from the existing Development Plan and to give greater weight to the more up to date guidance provided by Central Government in the National Planning Policy Framework. I therefore recommend conditional approval of the application on this basis.

## **7. RECOMMENDATION**

**THE HEAD OF PLANNING BE GIVEN DELEGATED POWERS TO GRANT PLANNING PERMISSION WITH CONDITIONS SUBJECT TO THE EXPIRY OF THE PUBLIC CONSULTATION PERIOD, THE NEWSPAPER ADVERT AND NO NEW ISSUES RAISED:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Any activity in connection with the use of the premises shall only take place between the hours of 07:00hrs and 23:00hrs Mondays - Sundays (including Bank Holidays);

Reasons: To safeguard the enjoyment of their properties by nearby residential occupiers in accordance with policy NRM10 of the South East Plan 2009 and the National Planning Policy Framework.

**Informatives set out below**

Any signage related to the approved development is likely to require advertisement consent. The applicant is advised to contact the Planning Duty Officer for further advice on 01622 602550.

The proposed development would be a departure from the Development Plan, in that it would not provide B1 Use employment accommodation within the application site in accordance with Policy ED2 of the Maidstone Borough-Wide Local Plan 2000. However, the proposed change of use would not be prejudicial to its designation and is in accordance with the advice in the National Planning Policy Framework which is more recent than policy ED2 of the Maidstone Borough-Wide Local Plan 2000, in that it is considered to be an acceptable form of sustainable economic development and that subject to the conditions stated there are no overriding material considerations to indicate a refusal of planning consent.