

REPORT SUMMARY

REFERENCE NO - 22/02998/FULL		
APPLICATION PROPOSAL Change of use from Council run 'Gateway Centre' (Sui Generis) to Class E excluding uses falling within E (e) (provision of medical or health services) but permitting use as an opticians; f) (creche, day nurseries and day centres); and g) industrial uses		
ADDRESS 8 Grosvenor Road Royal Tunbridge Wells Kent TN1 2AB		
RECOMMENDATION GRANT subject to conditions (see section 11.0 of report for full recommendation)		
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> • The proposal would allow the re-use of a vacant building within the town centre for a broad range of purposes; • The proposal would preserve the significance of the Conservation Area; • The proposal would not cause significant harm to the nearby residential amenity spaces. • The proposal would not have an adverse impact on the character and visual amenities of the street scene. • There would be no harm to highway safety arising from the proposal; • Other issues raised have been assessed and there are not any which would warrant refusal of the application or which cannot be satisfactorily controlled by condition. 		
INFORMATION ABOUT FINANCIAL BENEFITS OF PROPOSAL The following are considered to be material to the application: Contributions (to be secured through Section 106 legal agreement/unilateral undertaking): N/A Net increase in numbers of jobs: N/A Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs: N/A The following are not considered to be material to the application: Estimated annual council tax benefit for Borough: N/A Estimated annual council tax benefit total: N/A Estimated annual business rates benefits for Borough: Property already liable for business rates		
REASON FOR REFERRAL TO COMMITTEE Tunbridge Wells Borough Council are the landowners and the applicants (under Regulation 3 of the Town and Country Planning General Regulations 1992)		
WARD Park	PARISH/TOWN COUNCIL	APPLICANT Tunbridge Wells Borough Council AGENT N/A
DECISION DUE DATE 09/12/22	PUBLICITY EXPIRY DATE 18/11/22	OFFICER SITE VISIT DATE Various
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining		

sites):			
08/01245/FUL	Construction of side and rear extensions at first floor. The side extension projects over an access road and will be supported on a steel frame. The rear extension will be built over an existing ground floor extension.	Granted	03/06/08
08/01242/FUL	Rebuilding of front elevation including new shopfront; Replacement windows to front and part side elevation.	Granted	03/06/08
07/03413/FUL	Change of use from Restaurant (A3) to Council run "Gateway Centre" (Sui-Generis)	Granted	14/11/07
06/00492/FUL	Installation of a replacement ATM cashpoint machine	Granted	29/03/06
04/03070/FUL	Variation of Condition (1) of TW/85/1076 - Hours of opening	Granted	06/01/05
01/01569/FUL	Installation of an ATM unit through existing shopfront	Granted	04/09/01
00/01771/FUL	New shopfront	Refused	11/10/00
88/01843/FUL	Renewal - Section 32 (1) (B) - Continuance of use without complying with condition 4 of TW/82/0853	Granted	03/01/89
88/01081/FUL	First floor extension at rear, corridor and dry store.	Granted	28/07/88
86/01366/FUL	Renewal - Section 32 (1) (B) - Continuance of use without complying with condition 4 of TW/82/0853	Granted	06/11/86
85/01076/FUL	Removal of condition - Continued use without complying with opening hours (4 of TW/82/0853)	Granted	18/11/85
83/00525/FUL	New shop front alterations. Rebuilding existing rear extension.	Granted	07/07/83
82/00853/FUL	Change of use to restaurant with ancillary storage, office and staff facilities.	Granted	25/02/83

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 This application relates to a two-storey building, detached from the buildings either side, fronting Grosvenor Road. It is attached to the Royal Victoria Place Shopping Centre at the rear. The alleyway to the north west side of the building provides service and emergency access to this and other buildings. The front of the site is within the Conservation Area.
- 1.02 Its current lawful use is as a Council-run 'Gateway Centre', but is currently vacant following the transfer of these facilities to the new Amelia Scott development in April 2022. Prior to 2007/8 it was a fast food restaurant. The 'Gateway Centre' use is a *sui generis* one where planning permission is required for any alternative use.

2.0 PROPOSAL

- 2.01 In September 2020, the Government introduced a new use Class E (Commercial, business and service) in to the Use Classes Order. Class E subsumes previous use classes which were specified in the Schedule to the Use Classes Order as Class A1 (Shops), Class A2 (Financial and professional services), Class A3 (Restaurants and cafes) and Class B1 (Business). Class E includes;
- the display or retail sale of goods, other than hot food;
 - restaurants/cafes;
 - the provision of the following kinds of services principally to visiting members of the public—
 - financial services,

- professional services (other than health or medical services), or
- any other services which it is appropriate to provide in a commercial, business or service locality;
- indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public;
- *for the provision of medical or health services, principally to visiting members of the public;*
- *a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,*
- offices;
- the research and development of products or processes; or
- *a light industrial process.*

2.02 The proposal involves the change of use of the building to a broad Class E use, excluding the uses marked in italics above but including use as an opticians (which falls within 'the provision of medical or health services').

2.03 No change would be made to the exterior of the building. There are no proposed floorplans provided with the application as it will be for a future occupier to decide how the interior is divided/used; such internal works do not require planning permission.

2.04 The proposal has been slightly amended since submission to amend the site location plan to include the later side extension.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area	577.8sqm (GIA)	577.8sqm (GIA)	None
Land use	Local Authority 'Gateway'	Class E	Material change of use to Class E

4.0 PLANNING CONSTRAINTS

- Air Quality Management Area
- Tunbridge Wells Conservation Area - *statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990*
- Limits to built development - inside

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) 2021
National Planning Practice Guidance (PPG)

Site Allocations Local Plan July 2016

AL/STR 1 Limits to Built Development

Tunbridge Wells Borough Core Strategy 2010

CP1 Delivery of Development

CP4 Environment

CP5 Sustainable Design and Construction

CP7 Employment

CP9 Development in Royal Tunbridge Wells

Tunbridge Wells Borough Local Plan 2006

- EN1 Development Control Criteria
- EN5 Development in Conservation Areas
- TP4 Access to the Road network
- TP7 Tunbridge Wells Central Parking Zone (Commercial)
- TP9 Cycle parking

Supplementary Planning Documents

The Royal Tunbridge Wells and Rusthall CA Appraisal SPD (Nov 2000);
Noise and Vibration SPD (2014);

6.0 LOCAL REPRESENTATIONS

- 6.01 A site notice was displayed on the streets surrounding the application site on 18th October 2022. The application was also advertised in the local press.
- 6.02 No responses have been received to the site notice.

7.0 CONSULTATIONS

KCC Highways

- 7.01 (10/11/22) - As the site falls within the central area where vehicular access and parking is restricted, any operator will be required to comply with these restrictions. However some of the uses are typically dependent upon convenient parking and drop off arrangements etc and so will fit less well into this setting and may give rise to ongoing enforcement issues. Particularly creche, nursery or day centre use and some medical uses such as a doctors surgery and it may therefore be prudent to exclude these uses from any consent.

Mid Kent Environmental Protection

- 7.02 (01/11/22) - The Environmental Protection Team have no objections to the proposals but want to make sure that whatever use the building is put to that it does not cause disturbance to others. The most likely scenario within the Class E scenario would be from the installation of external equipment such as air conditioning or extraction fans.
- 7.03 RECOMMENDATIONS: The inclusion of a condition for an appropriate assessment of external plant for any future use that requires external plant.

Principal Conservation Officer

- 7.03 (07/11/22) - specialist advice from the Built Heritage Team is not, in this case, necessary for the determination of this application.

8.0 APPLICANT'S SUPPORTING COMMENTS

None submitted

9.0 BACKGROUND PAPERS AND PLANS

Application form
Cover letter
Ground floor and first floor plans

10.0 APPRAISAL

- 10.01 The main issues are:
 - The principle of the development;
 - Impact upon the Conservation Area;
 - Residential amenity;

- Highways and parking;
- Other matters.

Principle of Development

Core Strategy

- 10.02 The strategic objectives of the Core Strategy (Chapter 3, page 13) include the objectives to stimulate and sustain the economic growth and competitiveness of the town (SO2) and to target regeneration efforts where necessary, particularly in the borough's town centres to ensure that residents have the opportunity to access the services and facilities they require.
- 10.03 Core Policy 7 seeks to retain employment use within the Borough through maintaining the overall net amount of employment floor space for a range of employment generating uses. The application site falls within the Tunbridge Wells Town Centre Key Employment Area. Here, the policy seeks to safeguard employment areas and buildings that are well located in terms of main roads and public transport networks and that provide or are physically and viably capable of providing good quality modern accommodation that is attractive to the market. It is considered that the Class E re-use of the building meets all three criteria given the age of the building, that its design lends itself to a variety of uses and the location within the town centre area.
- 10.04 Core Policy 9 also seeks to promote the sensitive development of the town for a mix of uses, including employment and retail. It also seeks to maintain existing employment floorspace (Criterion 4); development must conserve and enhance the assets of the town and its special character.

NPPF

- 10.05 Para 81 of the NPPF states that;

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

- 10.06 NPPF Para 86a emphasises the need to define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries and allow a suitable mix of uses to reflect their distinctive characters.
- 10.07 On this basis, given the above policy support for the proposal and its compliance with the Core Strategy, the development is considered acceptable in principle.

Impact upon the significance of the Conservation Area

- 10.08 LP Policy EN1 requires the design of a proposal to respect the context of its site. CP4 (1) requires the Borough's urban landscapes to be conserved and enhanced.
- 10.09 The site is located within the CA. Para 197 of the NPPF states that Local Planning Authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. Para 206 states;

“Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those

elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.”

10.10 Impact on the CA also falls to be considered under LP policy EN5; then more broadly under EN1 and CS Policy 4, which seeks to conserve and enhance the Borough's urban environments (including CAs) at criteria (1) and (5).

10.11 The proposal makes no external alterations to the building and maintains its shopfront presence. Class E uses are appropriate to a retail area and its character. It would be likely to maintain (or add to) the vitality and viability of the shopping area, and maintain pedestrian activity therein. It is therefore not considered that any harm is caused to the significance of the CA. Furthermore the occupation of the unit rather than it remain vacant would ensure the building is maintained in good order and preserve the character of the CA.

Residential amenity

10.12 There are some residential uses close to the site, on upper floors of commercial premises. In the early hours of the morning, the background noise levels in this central location are generally much lower. It is important to protect residential amenities, particularly in view of the broad range of uses and activity that may potentially be associated with Class E. This is relevant and important due to the potential range and intensity of use that this permission may involve.

10.13 It is notable that the November 1985 planning permission permitted opening of the fast food restaurant from 7am to midnight Sunday – Thursday and 7am to 1am Friday to Saturday. The 2005 permission listed in the site history above extended the opening time to 6am daily. The same can be applied here.

10.14 Subject to suitable conditions to control hours of opening this plus noise from any plant/equipment, there would not be significant harm to residential amenity arising from the proposal.

Highways and parking

10.15 This is a town centre site in a highly sustainable location. Vehicle access to the site is not possible and there is no off-street parking. The road outside the site is restricted to buses and cycles only between 9am and 6pm daily. The Class E uses for which permission is sought, such as retail, restaurant and financial/professional uses are typical of those found in locations such as this.

10.16 KCC Highways raise no objections to the amended proposal which excludes provision of most medical or health services; creche, day nurseries and day centres; and industrial uses as these are most likely to put pressure on the road network through pick-ups/drop offs (such as parents dropping children and collecting them, or patients being collected from a GP surgery).

10.17 The proposed inclusion of the use as an optician (agreed verbally with KCC Highways) is due to its quasi-retail nature and lower dependency upon convenient parking and drop off arrangements. Another optician already operates within this restricted area.

Other issues

10.18 The Air Quality Management Area is not a constraint on this development and the proposal would not have a significant impact on air quality.

11.0 RECOMMENDATION – GRANT subject to the following conditions;

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements 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) The development hereby permitted shall be carried out in accordance with the following approved plans:

CIV005 – 07 1 (site location plan received 17/11/22)

Reason: To clarify which plans are approved.

- 3) The development hereby approved shall only be used for the following purposes within Class E;

E(a) Display or retail sale of goods, other than hot food

E(b) Sale of food and drink for consumption (mostly) on the premises

E(c) Provision of:

- E(c)(i) Financial services,
- E(c)(ii) Professional services (other than health or medical services), or
- E(c)(iii) Other appropriate services in a commercial, business or service locality

E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)

E(e) Opticians only and no other purpose in E(e)

E(g) Uses which can be carried out in a residential area without detriment to its amenity:

- E(g)(i) Offices to carry out any operational or administrative functions,
- E(g)(ii) Research and development of products or processes

and not for any other purpose without the express written planning permission of the Local Planning Authority, whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order).

Reason: In the interests of residential amenity, retaining employment space and to control and regulate development on this site

- 4) The rating level of noise emitted from the proposed plant and equipment to be installed on the site (determined using the guidance of the current version of BS 4142 for rating and assessing industrial and commercial sound: shall be low as reasonably possible. In general, this is expected to be 5dB below the existing measured background noise level LA90, T. In exceptional circumstances, such as areas with a very low background or where assessment penalties total above 5dB the applicant's consultant shall contact the Environmental Protection Team to agree a site specific target level.

Reason: In the interests of the residential amenity of nearby occupiers

- 5) The premises shall only be open to the public between the hours of 06.00 and midnight Sunday to Thursday; and 06.00 to 01.00 the following day Friday and Saturday.

Reason: In the interests of residential amenities and the character of the area

Case Officer: Richard Hazelgrove

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.