

Agenda Item A10	Committee Date 20 September 2010	Application Number 10/00689/VCN
Application Site A B C Lancaster (disused) King Street Lancaster Lancashire	Proposal Variation of condition 17 on application no. 08/01129/FUL to allow the ground floor retail unit to sell convenience goods	
Name of Applicant Kempsten Ltd	Name of Agent Phil Robinson	
Decision Target Date 7 October 2010	Reason For Delay N/A	
Case Officer	Mr Andrew Drummond	
Departure	No	
Summary of Recommendation	Approved	

1.0 The Site and its Surroundings

- 1.1 The application site is located on the corner of King Street and Spring Garden Street. The old cinema building and bingo hall was constructed of red brick with faience panels to the King Street façade. The Spring Garden Street elevation was of solid brick, and was only broken up by a billboard.
- Both King Street and Spring Garden Street are one-way roads, with the former forming part of the city's gyratory systems.
- 1.2 On the opposite side of Spring Garden Street is a small, surface public car park, and diagonally across King Street lies the cobbled and 'tree-scaped' triangular area known as Queen Square.
- The properties visible from the site to the west and south are predominantly 3-4 storey Georgian terraces built in the eighteenth century with traditional stone and large sash windows. The properties immediately to the north of the site along King Street, that form a 2-storey terrace that arcs round into Common Garden Street, are inter-war construction.
- Though there are numerous Listed buildings in the vicinity of the site, there are no Listed buildings actually adjacent to the site.
- 1.3 The site falls within the City Centre Conservation Area and within the City Centre as defined by the Local Plan in relation to retail development and uses.

2.0 The Proposal

- 2.1 The purpose of this application is to vary condition 17 attached to planning permission 08/01129/FUL. Condition 17 states;

"Notwithstanding the provisions of the Town & Country Planning Use Classes Order 2005 (or any other order revoking or re-enacting that Order), the use of the ground and first floors (with the exception of the hotel lobby) shall be limited to Use Class A1 (non-food) and shall not be used for

any other purpose without the express consent of the local planning authority."

The reason for this condition is to ensure that inappropriate uses do not occur within the locality, and for highway safety purposes.

2.2 It is proposed to remove the "non-food" restriction on the approved retail space at ground floor, so the accommodation would have a non-restrictive A1 use.

2.3 This application does not change the design, scale, form, floorspace or materials of the approved building.

3.0 Site History

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
08/00146/CON	Demolition of existing bingo hall and cinema complex	Approved
08/01129/FUL	Construction of a 6-storey development with A1 retail use at ground and first floors with a 115 bedroom hotel at second to fifth floors	Approved
09/00628/VCN	Variation of Condition 17 to allow open A1 use of the ground and first floor retail space	Withdrawn
09/00787/VCN	Variation of Condition 24 to allow operations or activities within the ground and first floor retail space between the hours of 06.00 and 23.00 without the prior approval of the Local Planning Authority	Approved
09/01109/VCN	Variation of Condition 17 to allow open A1 use of the ground and first floor retail space	Refused
09/01148/VCN	Variation of Condition 17 to allow A4 use in Unit 4	Approved
10/00170/VCN	Variation of Condition 17 to allow C1 use on the first floor	Withdrawn
10/00545/VCN	Variation of Condition 17 to allow B1 (Office) use on the first floor	Approved

4.0 Consultation Responses

4.1 The following responses have been received from statutory and internal consultees:

Consultees	Response
County Highways	<p>Similar proposals have previously been opposed by County Highways for use of the ground and first floors of this proposed building for food retail, on the basis of the impact of service vehicles on the gyratory system in Lancaster and also the issue of servicing arrangements in Spring Garden Street.</p> <p>This latest application seeks to utilise the ground floor only for "convenience goods" (including food retailing). Whilst County's preference would be to restrict the A1 retail use to non-food at this location, it is accepted that this application represents a significant reduction in the potential sales area, and on that basis they feel that they could not reasonably object to this latest proposal providing it is clear that the permission relates only to the ground floor retail sales area, and limits the amount of floor area for food item sales to the 280 sq.m (as proposed by Mouchel in their Policy Compliance Statement submitted in support of the application).</p> <p>However County require some strong controls on how the servicing to the premises will operate, along the lines of the measures suggested in the Policy Compliance Statement, and therefore require the following conditions:</p> <p>1) All servicing of the development hereby approved shall take place from the loading bay provided in Spring Garden Street under the S278 agreement between the</p>

	<p>applicant and the highway authority. Under no circumstances shall servicing take place from King Street at any time. Reason – In the interests of highway safety and convenience and to ensure congestion in the gyratory traffic system in Lancaster is not exacerbated by the development.</p> <p>2) Prior to the first use of the development hereby permitted, a Servicing Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the highway authority. The plan shall be implemented immediately on opening of the development hereby permitted. Reason - to ensure that servicing of the retail element is actively managed to minimize impact on the surrounding highway network.</p>
Police	No objections.
Environmental Health	No objections.

5.0 Neighbour Representations

- 5.1 No correspondence was been received at the time of compiling this report. Any comments subsequently received will be reported verbally.

6.0 Principal Development Plan Policies

6.1 National Planning Policy Statements (PPS) and Guidance Notes (PPG)

PPG13 (Transport) - New development should help to create places that connect with each other sustainably, providing the right conditions to encourage walking, cycling and the use of public transport. People should come before traffic. Places that work well are designed to be used safely and securely by all in the community. The planning system has a substantial influence on the safety of pedestrians, cyclists and occupants of vehicles through the design and layout of footpaths, cycleways and roads. Planning can also influence road safety through its control of new development. When thinking about new development, and in adapting existing development, the needs and safety of all in the community should be considered from the outset.

6.2 Lancaster District Local Plan - adopted April 2004 (saved policies)

Policy **T24** (Cycling Strategy) - development that would prejudice the implementation of any section of the cycle network will only be permitted where an acceptable alternative route has been provided

Policies **T26** and **T27** (Footpaths and Cycleways) - requirements to include cycle and pedestrian links for new schemes.

Policy **R21** (Access for People with Disabilities) - requires disabled access provision.

6.3 Lancaster District Core Strategy - adopted July 2008

Policy **SC6** (Community Safety) - to encourage high quality pedestrian friendly designs, giving attention to personal safety issues in all new development, avoiding car dominated environments, reducing the impact of traffic, managing Lancaster City Centre to promote vitality and viability and deliver safe high quality public realm.

Policy **E2** (Transportation Measures) - ensuring all major development proposals are accompanied by enforceable measures to minimise the transport impacts of development.

7.0 Comment and Analysis

- 7.1 On the 2008 application (08/01129/FUL) for the new development County Highways required a restrictive A1 use for the ground and first floor because the development was being serviced from an on-street service bay, when normally they would require 2,000 sq.m of retail space to be served from an on-site service yard. They required this restriction so as to limit the number of deliveries, as food

retailing generally attracts more daily deliveries than other retail occupiers. Their concern related to the operation and safety of the highway network, including the foot and cycle paths. Firstly, if too much demand was placed on the on-street service bay, vehicles could end up queuing along Spring Garden Street waiting for the bay to become available, during which time they could be blocking an important bus route. Secondly, in order to manoeuvre the delivery vehicle into the service bay and then to unload the vehicle into the unit (across and along the pavement), County had concerns about the safety of pedestrians and cyclists. For these 2 reasons, County sought to restrict the type of goods sold from the retail accommodation to non-food items.

7.2 It should be noted that following the approval of 10/00545/VCN to change the use of the first floor accommodation from retail to office use, the overall amount of retail floorspace has effectively been halved. This in itself reduces the likely pressure on the on-street service bay as the deliveries associated with an office use are deemed to be significantly less than those associated with retailing.

7.3 Further to the withdrawal of 09/00628/VCN and the refusal of 09/01109/VCN, the applicant has sought to address the concerns raised by both the Planning and Highway Authorities.

This latest application seeks to utilise part of the ground floor only for "convenience goods" (i.e. food sales). Whilst it would be County's preference to restrict the A1 retail use to "non-food" at this location (for the reasons set out in 7.1 above) it is accepted that this application represents a significant reduction in the potential sales area. On this basis they feel that they could not reasonably object to this latest proposal providing it is clear that the permission limits the amount of floor area for food sales to the 280 sq.m as proposed by Mouchel in their Policy Compliance Statement submitted in support of the application.

7.4 However, to support the scheme the Highway Authority requires some further controls on how the servicing to the premises will operate, and therefore require the two suggested conditions listed in the table under Paragraph 4.1 of this report.

7.5 Though 2 previous applications that sought to remove the restrictive "non-food" element of the A1 use were unsuccessful, the applicant has addressed County Highway's concerns and therefore the current application can be supported.

8.0 Planning Obligations

8.1 The 08/01129/FUL permission was granted subject to the applicant entering into a Section 106 (s106) agreement requiring 3 payments for:

- Improvements to the Conservation Area
- A toucan crossing across King Street to Queen Square
- Improvements to the cycleway network in the vicinity of the site

The applicant has signed the s106 agreement and is already making the relevant payments in accordance with the agreed timetable.

9.0 Conclusions

9.1 For the reasons set out above, the variation to Condition 17 to allow part of the ground floor of the development to be used for food retailing is acceptable.

Recommendation

That Condition 17 of Planning Permission 08/01129/FUL **BE VARIED** to allow open A1 use on part of the ground floor subject to the following conditions:

1. A1 food retailing be limited to 280 sq. m (net)
2. All servicing of the development shall take place from the loading bay provided in Spring Garden Street
3. Servicing Management Plan - details and written agreement required prior to first use or occupation

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

None