

<b>Agenda Item</b> A16	<b>Committee Date</b> 12 December 2011	<b>Application Number</b> 11/00923/CU
<b>Application Site</b> 7 Cheapside Lancaster Lancashire LA1 1LY		<b>Proposal</b> Change of use from retail (Class A1) to coffee shop (Class A3)
<b>Name of Applicant</b> Mr P Kirton		<b>Name of Agent</b> GIA Ltd
<b>Decision Target Date</b> 25 November 2011		<b>Reason For Delay</b> Committee Cycle
<b>Case Officer</b>		Mr Daniel Ratcliffe
<b>Departure</b>		No
<b>Summary of Recommendation</b>		Approval

### **Procedural Matters**

This application would normally be dealt with under delegated powers but has been placed on Planning Committee as the property is owned by Lancaster City Council.

#### **1.0 The Site and its Surroundings**

- 1.1 The property which form the subject of this application is a vacant shop unit (formerly Millets) situated on the east side of Cheapside. Cheapside forms one of the main pedestrian shopping streets in the centre of Lancaster, and is designated within the Lancaster District Local Plan as Primary Retail Frontage. The property is also situated within the Lancaster Conservation Area.

#### **2.0 The Proposal**

- 2.1 The application proposes the change of use of the ground floor from Use Class A1 (Retail) to Use Class A3 (Restaurants and Cafes). The proposal specifically seeks to use the unit as a café. This application does not involve any external alterations to the property.

#### **3.0 Site History**

- 3.1 The subject property has a number of historic applications relating to signage and shop fronts, none of which are necessarily relevant to this proposal.

#### **4.0 Consultation Responses**

- 4.1 The following responses have been received from internal consultees:

<b>Consultee</b>	<b>Response</b>
<b>Environmental Health</b>	No objections but would recommend the provision of one additional toilet so that there is one for each gender.

<b>Access Officer</b>	Should the application be approved the applicant should consider access for disabled people with regards to the entrance doors and serving counters amongst others.
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## **5.0 Neighbour Representations**

5.1 No comments received during the statutory consultation period.

## **6.0 Principal Development Plan Policies**

### **6.1 Emerging National Planning Policy**

The **Draft National Planning Policy Framework (NPPF)** signals the Government's intention to replace PPS and PPG Notes with a new framework which indicates a presumption in favour of sustainable development. The NPPF consultation period has concluded and Government will report shortly on the final document. Its formal introduction will be enacted under the provisions of the Localism Act (granted Royal Assent in November 2011). However, although the final content of the post-consultation NPPF is not yet known, the current Draft NPPF remains a material consideration in planning decisions. The extent of weight attributed to the draft document is a matter for the decision-maker – in this case the local planning authority. The proposal to re-use this vacant property for the intended use is broadly compliant with the aims of the Draft MPPF.

In March 2011 Government advised all local planning authorities to plan positively for growth and economic development via their Ministerial Statement – '**Planning for Growth**'. Applications that secure sustainable growth should be treated favourably and appropriate weight given to the need to support the economic recovery. Reconsideration of previous planning contributions may also be required.

### **6.2 Planning Policy Statements (PPS) and Planning Guidance Notes (PPG)**

**PPS1** (Delivering Sustainable Development) identifies key principles to promote sustainable development, namely making suitable land available to improve people's quality of life (economically, socially and environmentally); contributing to sustainable economic development; protect and enhance the natural and historic environment and existing communities; ensure high-quality development through good and inclusive design and efficient use of resources; and ensure development contributes to safe, sustainable, liveable mixed communities with good access to jobs and key services for all members of the community.

**PPS4** (Planning for Sustainable Economic Growth) the Government's overarching objective is sustainable economic growth, and for this to occur the planning system should seek to build prosperous communities by improving the economic performance of cities; reduce the gap in economic growth rates between regions, promote regeneration and tackle deprivation; deliver more sustainable patterns of development, aimed at reducing the need to travel; and promoting the vitality and viability of town centres by focusing development and new economic growth within such centres, providing innovative and efficient shopping, leisure, tourism and local services, and conserving heritage whilst enhancing a sense of place for the community and for civic activity.

**PPS 5** (Planning for the Historic Environment) requires that the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring. The planning system should take account of the wider social, cultural, economic and environmental benefits of heritage conservation; recognise that intelligently managed change may sometimes be necessary if heritage assets are to be maintained for the long term and recognise that heritage assets are a non-renewable resource. The planning system also requires conservation of heritage assets in a manner appropriate to their significance.

### **6.3 Lancaster District Core Strategy (adopted July 2008)**

Policy **ER4** (Town Centres and Shopping) defines the spatial role for Lancaster as a sub-regional city centre, providing the main comparison shopping destination for the district and adjoining regions as well as developing its role as a tourist destination.

## 6.4 Lancaster District Local Plan (Saved) Policies (adopted April 2004)

Policy **S4** (Lancaster City Centre Primary Retail Frontages) identifies the areas within Lancaster City Centre as Primary Retail Frontages in which A1 Retail uses shall remain the dominant use.

Policy **S7** (Change of Use to A3 within Primary Retail Frontages) states that change of use from A1 to A3 will only be permitted where:

- an adjoining frontage is in A1 Retail use; and
- the proposal would not result in the proportion of A3 (Food and Drink) of any continuous retail frontage length exceeding 20%, and
- the proposal does not have a significant adverse effect on the character of the street or the amenities of neighbouring residents or businesses.

Policy **E36** (Change of Use within Conservation Areas) acknowledges that the character of an area can be affected where a building changes to a new use.

## **7.0 Comment and Analysis**

7.1 In planning policy terms the main issue relating to the change of use in this city centre location is whether the proposal conforms with the Local Plan saved policies identified in section 6.4 of this report, namely S4 which identifies Cheapside as a Primary Retail Frontage and Policy S7 which identifies a set of criteria for new A3 (Café) uses in areas protected by Primary Retail Frontages.

7.2 At present there is a mixture of uses within Cheapside although the majority of units in the immediate vicinity are within the A1 use class (retail) including Thomas Cook, The Carphone Warehouse and Specsavers. The shop unit in question is currently unoccupied and, as can often be the case with any vacant unit, the premises present a visual blot within the other wise busy commercial centre. This is emphasised by the fact that Cheapside as one of the primary shopping streets sees a significant amount of pedestrian traffic than many other parts of the city centre. With reference to Policy S7 the proposal clearly satisfies criterion 1 as both adjoining units are in A1 (retail) use.

7.3 The current situation within the continuous length of Primary Retail Frontage is that 20% is given to A3 (Restaurant and Café) uses. At present, of the five units from Ashton Walk to Lancaster Gate one of them is used as A3, this being the Costa Coffee shop which has a narrow frontage to Cheapside. Should the application be approved the frontage will have an increased A3 element of 28%, 8% and approximately 4 metres (of a 48 metre continuous frontage) above the threshold referred to in Policy S7. However, taking into consideration the whole frontage from Lower Church Street to Lancaster Gate (i.e. including the 2 charity shops and a building society at the north end of the eastern frontage onto Cheapside) the proposal is in accordance with the Council's adopted policy. If the first approach was applied, the proposal would fail to meet the necessary policy requirements and therefore the application could be refused on policy grounds, leaving the unit vacant. Considering the recent Planning for Growth Statement, the need to support the economic recovery and the fact that the premises have already been empty for the past 10 months, Members are asked to consider a more pragmatic view to the policy in question, and apply the second approach (taking into consideration the whole frontage from Lower Church Street to Lancaster Gate).

7.4 Members should also note the circumstances associated with LDLP Policy S7. It was initially drafted at a time when the (National) Use Classes Order did not differentiate between cafes, restaurants, hot food takeaways and public houses – i.e. they all fell under the A3 use class and there was a need to protect vibrant retail streets from uses, such as hot food takeaways, that would be closed during the daytime or would be predominantly focused upon the evening economy. This is no longer the case and so Policy S7 is less relevant as a result of the creation of separate use classes for each of these uses.

7.5 This proposal does not seek any external alterations to the existing property. It is therefore considered that the proposal would not have an adverse impact on amenity or streetscape, either in terms of its appearance or in terms of its vitality. If the future occupier wishes in the future to make any alterations, including the installation of any fascia signage, this would be subject to a separate application which would be assessed on its own merits at that time.

## **8.0 Planning Obligations**

8.1 There are no planning obligations to consider as part of this application.

## **9.0 Conclusions**

9.1 It is considered that although it could be argued that the proposal does not satisfy the requirements of Policy S7 with specific regard to retail policy, there is an equally valid argument that it does for the reasons set out in paragraphs 7.3 and 7.4. Furthermore the occupation of an existing vacant unit in this prominent location is considered to improve the appearance of the street scene and vitality of the city centre and should be encouraged. The application is therefore recommended for approval.

## **Recommendation**

That Planning Permission **BE GRANTED** subject to the following conditions:

1. Standard 3 year time limit
2. Development carried out in accordance with approved plans
3. Hours of opening restricted to 0800 to 1800 Monday to Sunday

## **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.