

4.1 - SE/15/03943/FUL Date expired 10 February 2016

PROPOSAL: Change of use of Unit 2, ground floor (formerly "Entre Nous") to financial and professional service use (A2).

LOCATION: Entre Nous Lingerie, Market Square House, 22A Market Square, Westerham TN16 1AR

WARD(S): Westerham & Crockham Hill

ITEM FOR DECISION

The application is referred to Development Control Committee by Councillor Esler, due to concerns about the loss of these units.

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

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

In pursuance of section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: A11, A12 and A13.

In pursuance of section 91 of the Town and Country Planning Act 1990.

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by;

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line (www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp),
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the

improve the economic, social and environmental conditions of the area,

- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Did not require any further assistance as the application was acceptable as submitted.

Background:

- 1 It should be noted that there is a concurrent planning application to change the use of the adjacent 22 Market Square from “Hunters Estate Agents” to an unrestricted financial and professional services use. Many of the considerations of this application are common to both and therefore whilst there will be individual reports for each unit, much of the commentary within the reports will be similar.

Description of Proposal

- 2 This application relates to a ground floor area of some 25m² in total.
- 3 The applicant is seeking to change this retail shop unit to use for financial and professional services. The premises were formerly occupied by “Entre Nous” lingerie shop, which has now relocated to a unit behind Costa Coffee, no.4 London Road.
- 4 The application relates entirely to the issue of the change of use and no internal or external alterations are proposed.

Description of Site

- 5 The application site, which is located on the north-west side of the High Street, accommodates a 3 storey building, 3 windows wide, dating to the early 18th Century. On the ground floor are 2 late 19th Century shop windows either side of a central entrance, which serves both the two self-contained ground floor units as well as the offices to the rear and on the floors above. The building is Grade II listed, as are those either side. The applicant owns the entire premises.
- 6 The site is located in the heart of the Town. Directly in front of the building is a large water fountain feature with elaborately decorated lamp stand adjacent to which is the zebra crossing. The lane comprising Fullers Hill is also adjacent to the site.

Constraints

- 7 Within built confines of Westerham and within area identified on the Neighbourhood and Village Centre Maps as “Westerham Centre”.

- 8 Grade II Listed Building
- 9 Westerham Conservation Area
- 10 Kent Downs Area of Outstanding Natural Beauty.

Policies

ADMP:

- 11 Policy - TLC4

Sevenoaks Core Strategy:

- 12 Policy - L07

Other:

- 13 National Planning Policy Framework

Planning History (Most relevant only):

- 14 SE/14/04047/FUL: Change of use of ground floor to financial and professional service use. Withdrawn March 2015 prior to determination.
- 15 SE/86/1262: Use of ground floor and lower ground floor of premises for the selling of houses with ancillary design and building services (Unit 22). Granted 29 August 1986.

Consultations

Westerham Town Council

- 16 “WTC objects to this application under SDC policy TLC4 as “a net loss of shopping service uses will not be permitted unless evidence is provided to the council to show that the operation of the facility is no longer financially viable and where there are no other realistic proposals for retail or services uses on the site, including through Community Right to Buy.”
- 17 This unit is mirrored by No22 Market Square. It was formerly a successful retail outlet, which upon termination of its lease relocated in the Town. The shop is now empty. There is no evidence that the owners have undertaken any marketing of the shop for an alternative occupier, as it is understood that the Financial Services Company has already been identified as a new tenant for both this and No 22.
- 18 The two units form part of the same ground floor property frontage and provide valuable small shops for independent retailers. The Market Square and Westerham Green are central to the shopping services of the Town providing a range of independent retailers.

Planning Policy Team:

- 19 See main report below.

Representations

- 20 An additional comment has been received to advise that Westerham Town Council have not been made aware of any attempt to find alternative retail tenants for either shop, neither is this commented on in the application.

Chief Planning Officer's Appraisal

Principal issues

The implications of the proposed use:

- 21 The application relates to the change of use of a building in commercial use within the heart of Westerham Town Centre and is defined in Appendix 8 of the Core Strategy as a "Neighbourhood and Village Centre".
- 22 Thus the key planning policy relevant to this application is TLC4 of the ADMP. This relates to Neighbourhood and Village Centres, which specifically includes the centre of Westerham. The most relevant part of the policy states as follows:

"Within neighbourhood and village centres, as defined in Appendix 8, a range of shops (including Use Class A1) and services (including Use Classes A2, A3, A4 and A5) will be maintained.

Changes of use between shopping and service uses within neighbourhood and village centres will be permitted where this would not lead to the loss of A1 units serving the day to day need of the community during the plan period.

Proposals resulting in a net loss of shopping or service uses will not be permitted unless evidence is provided to the Council to show that the operation of the facility is no longer financially viable and where there are no other realistic proposals for retail or service uses on the site, including Community Right to Buy."

- 23 By way of explanation, A1 Use Class (Shops) is defined as the retail sale of goods to the public. This may include shops, hairdressers, ticket agencies, sandwich bars and internet cafes. An A2 use is defined as financial, professional and other services where the services are provided principally to visiting members of the public. Such uses may include banks, building societies, estate agents, employment agencies and betting shops.
- 24 The Planning Policy Team have examined the proposals and advise that the comments on the previous planning application stand as neither the proposals nor the policy context have changed (previous ref: SE/14/04047/FUL - which was withdrawn in March 2015 prior to determination). Their comments with regard to the premises are provided below:

"The key strategic planning policy issues are considered to be:

- *Change of use of one unit from A1 retail to A2 Financial and Professional Services (no. 22A)*

The application site lies within the designated village centre of Westerham protected under policy TLC4 of the Allocations and Development Management Plan (ADMP). This policy seeks to protect the range of shops and services which serve the local community within the defined centre boundary.

Change of use of one unit from A1 retail to A2 Financial and Professional Services:

Policy TLC4 in the ADMP states that change of use from A1 to A2 will only be acceptable within the defined centres if the village centre remains able to support the day to day needs of the community.

Westerham centre (as defined in ADMP Appendix 8) has approximately 67 units within the A use classes 61% of which are in A1 retail use including a Village Store and a Post Office (Town and Local Centre Monitoring 2014).

The loss of a single retail unit, currently a lingerie store, is unlikely to have a detrimental impact on the ability of the centre to provide for the day to day needs of the local community. There is also some capacity in the centre for this shop to relocate into existing vacant units. Therefore there is no policy objection to this change of use.”

- 25 The following comments have also been added as an update to those provided above:

“The August 2015 town centre retail audit for Westerham confirms that the centre still has 67 units within the A use classes, 61% of which are designated A1 retail use, with a small number of vacancies.

The proposals are compliant with Policy TLC4 which states that ‘changes of use between shopping (A1) and service (A2) uses will be permitted where this would not lead to the loss of A1 units serving the day to day needs to the community’. This proposal would ensure that enough retail units would remain to serve the day to day needs of the community. The proposal does not result in a net loss of shopping (A1) or service (A2) uses (combined) as the proposal is to maintain one unit in A2 service use (no.22) and convert the other unit from A1 to A2 (no.22A). The policy allows for an A1 use to be changed to an A2 use in this situation, without the submission of further evidence.”

- 26 Amongst other things policy EN1 of the ADMP seeks to ensure satisfactory means of access for vehicles and pedestrians. Policy EN2 seeks to protect residential amenity.

- 27 No objection is raised to the principle of an A2 use in this location within the Town Centre, which is clearly considered acceptable for a range of similar uses. Furthermore no objection is raised to the proposals on the grounds of impact on the amenities of neighbouring occupiers or highway conditions. Therefore, I consider the Town centre location to be appropriate for the use proposed.

- 28 With regard to the objections raised by Westerham Town Council, whilst the proposals would as a matter of fact result in the loss of a single A1 retail shop unit, Policy TLC4 as worded, does not require evidence from an applicant that the operation is no longer financially viable, unless there was a loss of both retail A1 and service uses such as an A2 use.
- 29 The key test is whether the loss of this single unit would undermine the vitality and viability of the Town centre by resulting in the loss of an A1 unit serving the day to day needs of the community during the plan period. In this regard, the proposals have to be set in the context of the number of units available in the Town centre as a whole, which is the exercise undertaken by the Planning Policy Team as set out above. This clearly indicates that the majority of units would remain in an A1 retail use. Thus this single change of use is not considered to undermine the viability of the Town centre.
- 30 It is highly unlikely that a more rigid interpretation of the policy would be successful at appeal, as this would essentially prohibit any flexibility of uses within the Town centre, whether or not they are appropriate i.e. the other uses the policy expressly seeks to support within the centre, which include A2, A3, A4 and A5 uses. Thus the second requirement of the policy requiring evidence that a retail use is not viable, does not fall to be considered in this instance. Indeed, that is the reason for the terminology of this part of the policy which states that:
- “Proposals resulting in a net loss of shopping or **service uses** will not be permitted unless evidence is provided...” (*my emphasis in bold*).
- 31 Clearly the proposals would not result in the loss of services uses. I therefore consider the proposals to comply with policy TLC4.

Other matters

- 32 Policy EN4 of the ADMP permits proposals that conserve or enhance the character or appearance and setting of the asset.
- 33 The proposals would not result in any internal or external physical alterations to the building and the shop front would be retained. Thus there are no implications for the special character or significance of this listed building or the character and appearance of the Conservation Area.
- 34 I consider the proposals would conserve and enhance the character of this part of the AONB in accordance with policy EN5 (Landscape) of the ADMP.

Conclusion

- 35 I consider the proposals would preserve the character, setting and appearance of the listed building and the Conservation Area and to have an acceptable impact in amenity and highway terms and to be policy compliant in these regards.
- 36 In light of the above, I am satisfied that the proposals are policy compliant, as they would not result in the loss of A1 and A2 units serving the day to day needs of the community.

37 In light of the above, it is my conclusion that a use of the premises for Class A2 purposes would be entirely compliant with policy TLC4 and would maintain the range of shops and services within Westerham Town centre.

Background Papers

Site and Block Plan

Contact Officer(s): Mr J Sperryn Extension: 7179

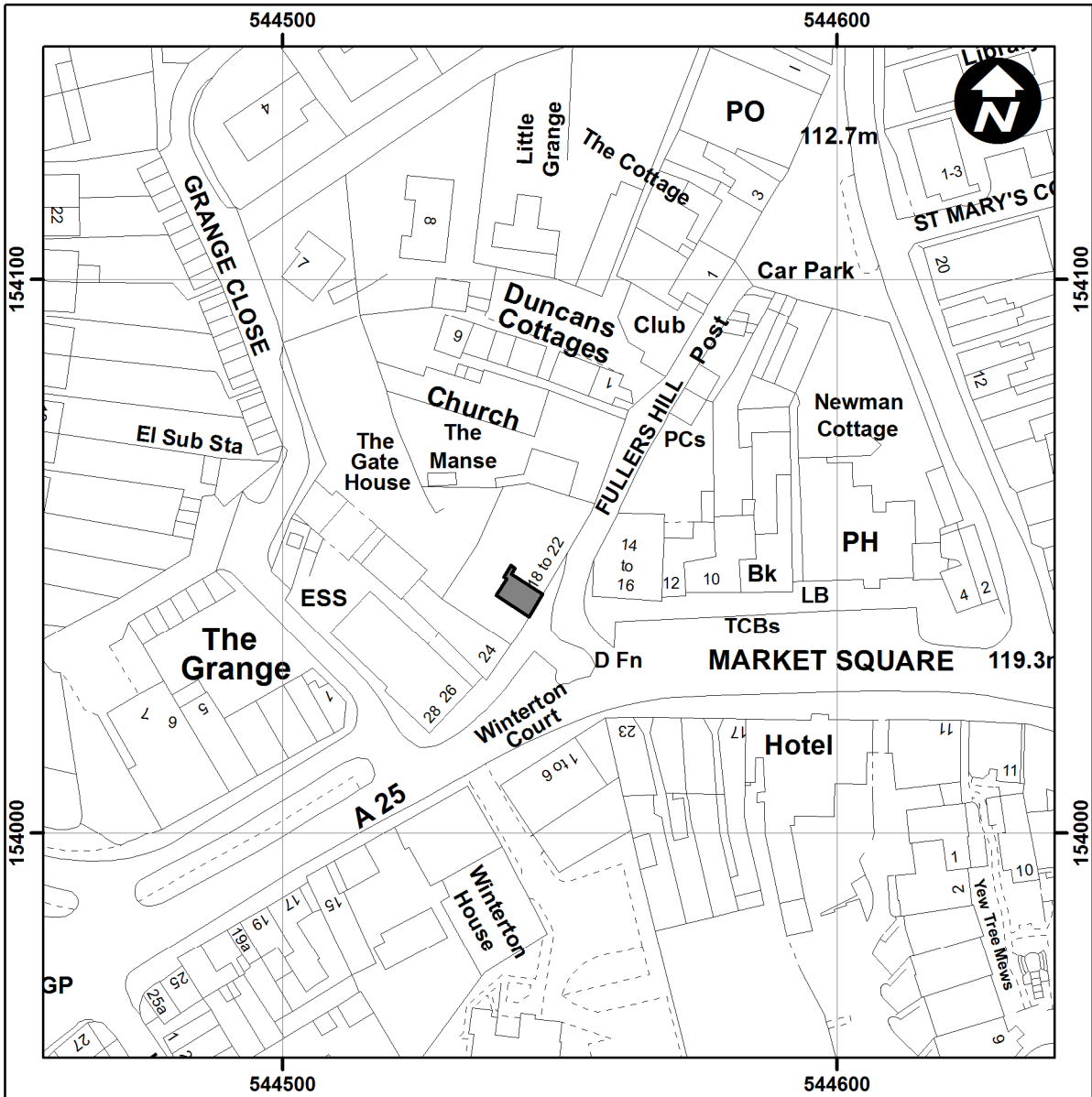
Richard Morris
Chief Planning Officer

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NZGNAWBKGMQ00>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NZGNAWBKGMQ00>



Site Plan

Scale 1:1,250

Date 25/02/2016



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DISTRICT COUNCIL

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Ordnance Survey 100019428.

