

**4.2 - SE/15/03952/FUL**      Date expired 10 February 2016

**PROPOSAL:**                      Change of use of Unit 1, ground floor occupied by "HUNTERS Estate Agents" to financial and professional service use (A2).

**LOCATION:**                        Market Square House , 22 Market Square, Westerham TN16 1SR

**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: A.08, A.09, A.10.

For the avoidance of doubt and in the interests of proper planning.

**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](http://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 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 22A Market Square from a retail shop to financial and professional services. 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 The application relates to a ground floor area of some 25m<sup>2</sup> together with a small basement area of some 20m<sup>2</sup>.
- 3 The supporting statement explains that “The application is to remove the (Estate Agents) in the listing so that use as financial and professional services can be carried out on the premises. This may well include Estate Agents but the wording needs to (be) clear as to the legal use.”
- 4 Whilst the description of the application refers to the change of use of the premises from “Hunters Estate Agents” to “financial and professional services”, in planning terms the use Class would in fact remain the same (Use Class A2).
- 5 However, the existing use is specifically restricted to “*the selling of houses with ancillary design and building service*” only. Thus the change to any use other than that specified requires the benefit of planning permission and hence the reason for this application.
- 6 The application relates entirely to the issue of the change of use and no internal or external alterations are proposed.

## Description of Site

- 7 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 18<sup>th</sup> Century. On the ground floor are 2 late 19<sup>th</sup> 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.

- 8 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. Fullers Hill, a small lane running to the north, is passes in front of the site.

### Constraints

- 9 Within built confines of Westerham and within area identified on the Neighbourhood and Village Centre Maps as “Westerham Centre”.
- 10 Grade II Listed Building.
- 11 Westerham Conservation Area.
- 12 Kent Downs Area of Outstanding Natural Beauty

### Policies

#### ADMP

- 13 Policy - TLC4

#### Sevenoaks Core Strategy:

- 14 Policy - L07

#### Other:

- 15 National Planning Policy Framework

### Planning History

- 16 SE/14/04047/FUL: Change of use of ground floor to financial and professional service use. Withdrawn March 2015 prior to determination.
- 17 SE/86/1262: Use of ground floor and lower ground floor of premises for the selling of houses with ancillary design and building services. Granted 29 August 1986 with the following condition:
- “The premises shall be used solely for the use applied for, and for no other purpose (including any other purpose in Class 2, of the Schedule to the Town and Country Planning (Use Classes) Order 1972, or in any provisions equivalent to that class in any statutory instrument revoking and re-enacting that Order).*
- Reason: In the interests of the vitality of this frontage of Market Square for shopping purposes”.*
- 18 For information, Class 2 referred to above allowed “use as an office for any purpose”.

## Consultations

### *Westerham Town Council*

- 19 “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.”
- 20 We understand that the property owner wishes to relocate the office users currently in Grange Lodge to this unit and requires change of use to achieve this. This unit mirrors in size and frontage the design of 22A Market Square and is to all intent part of the same property. It has been occupied by Hunters for approximately 25 years and acts as a service company and letting agency to local property owners rather than a traditional estate agency. It is understood that Hunters wish to remain in the premises.”
- 21 In response to the above the planning agent has commented as follows:
- The unit is not a shopping service it is already in A2 use
  - No users in Grange Lodge are being relocated to this unit
  - The new use would be A2, which can include a service company and letting agency
  - Hunters are leaseholders and their lease has expired.

### *Planning Policy Team*

- 22 See main report below.

### *Representations*

- 23 An additional comment has been received to advise that Westerham Town Council states that WTC 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*

- 24 The application relates to the change of use of a building in commercial use within the heart of Westerham Town Centre. The site is within an area defined in Appendix 8 of the Core Strategy as a “Neighbourhood and Village Centre”.
- 25 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 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.”*

- 26 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.
- 27 It should also be noted that there is no restriction whatsoever on an alternative company occupying the application premises for the “selling of houses with ancillary design and building services”. In the circumstances, the particular occupier of the property is not a matter that can be controlled.
- 28 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). In summary, no objection was raised to use of no.22 (estate agents) for unrestricted Class A2 use.
- 29 In amplification of the above, they comment with regard to both current applications that;

*“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.”*

- 30 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.
- 31 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. In any event, one of the purposes of the Use Classes Order is to group together uses which would not have a materially different impact from one another specifically to allow a degree of flexibility in the occupation of premises.
- 32 The key issue is whether the continued use of no.22 for an alternative A2 use would undermine the viability and vitality of the Town Centre. In this regard, no.22 has remained in an A2 use for 30 years since the original grant of planning permission in 1986. Thus the use is well established, has already been categorised in town centre audits as a non A1 retail use and is considered to contribute to the services provided within the Town centre. Thus it is considered to comply with policy TLC4 which seeks to maintain such uses.

#### **Other matters**

- 33 Policy EN4 of the ADMP permits proposals that conserve or enhance the character or appearance and setting of the asset.
- 34 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.
- 35 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**

- 36 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 be policy compliant in these regards.
- 37 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.
- 38 In light of the above, it is my conclusion that a continued 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

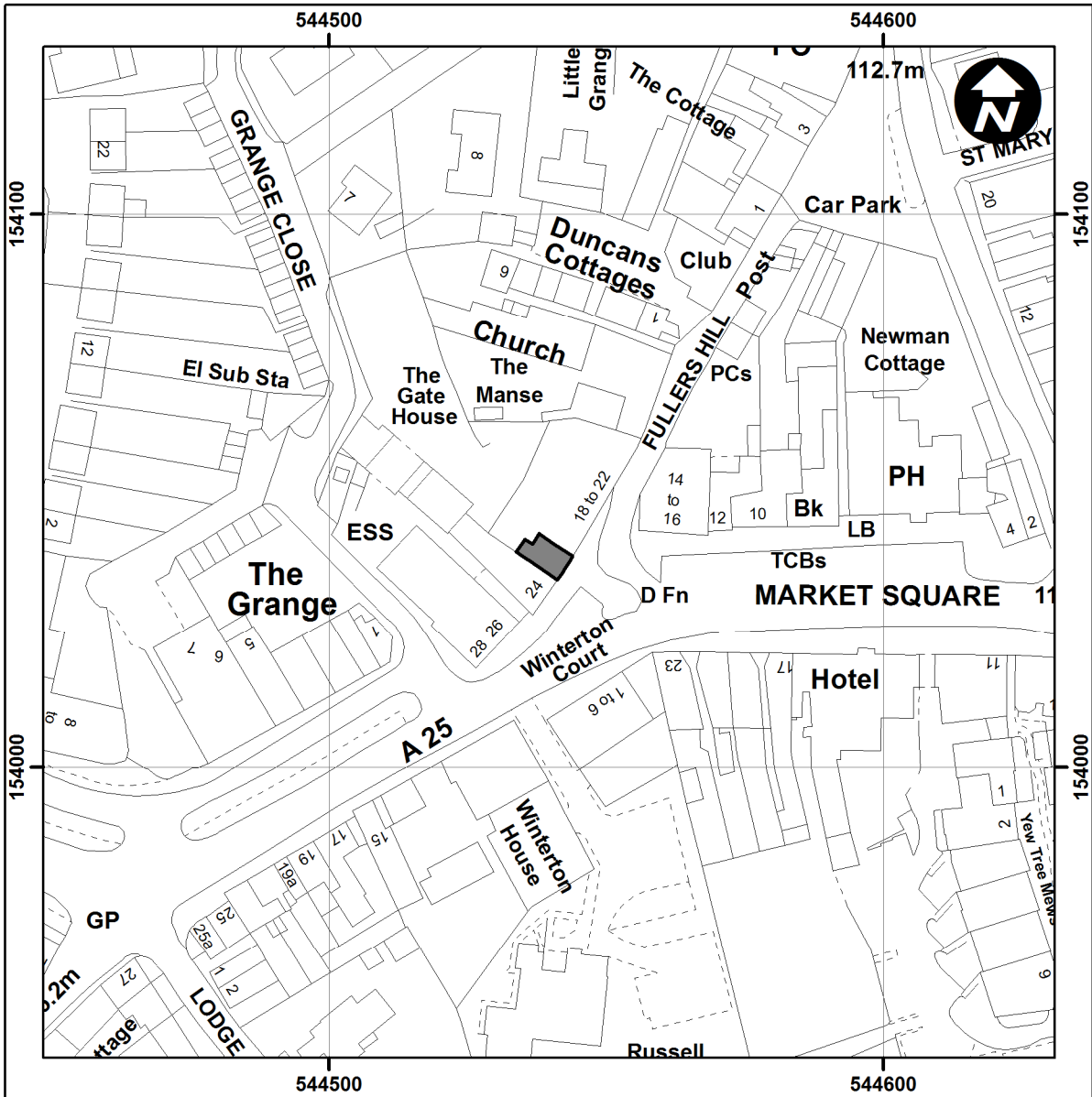
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NZGNC7BKGN900>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NZGNC7BKGN900>



# Site Plan

Scale 1:1,250

Date 25/02/2016



## Sevenoaks

DISTRICT COUNCIL

© Crown copyright and database rights 2016

Ordnance Survey 100019428.



