

OFFICERS REPORT

Application No: Y18/0033/NMA

Location: 22 Guildhall Street Folkestone Kent CT20 1DZ

Proposal Non-material amendment to planning application Y17/0759/SH (Installation of a replacement shop front) to allow for a change to side hung doors to the shop front.

ASSESSMENT

Performance data:-

Date application valid: 06/07/2018
Applicable 8/13/16 week target date: 03/08/2018
Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA) ? N
If Yes, revised 8/13/16 week target date:
Is the application being determined after 26 weeks without a PPA or a PEA? Y

SITE VISIT

N/A

SITE

The application site is located on Guildhall Street in Folkestone. The site is located close to the defined Folkestone Conservation Area, and is within the Secondary Shopping Area of Folkestone Town Centre. The unit is currently A1 (retail).

RELEVANT HISTORY

Y17/0759/SH: Installation of a replacement shop front. Approved 10/10/2017.

PROPOSAL

Planning permission was granted under application ref. Y17/0759/SH to replace the existing shopfront, which has a deep inset entrance, with a flush shopfront design. The approved shopfront featured a pair of central sliding aluminium framed glazed doors, aluminium framed shop windows to either side and timber stall risers.

The application seeks to ascertain whether a revised shopfront design with a pair of inward opening aluminium framed glazed doors, and a shopfront frame of aluminium or timber (colour to be confirmed), can be considered a non-material amendment to the approved scheme.

CONSULTATION RESPONSES

None.

REPRESENTATIONS

No comments received.

PUBLICITY

Neighbours notified by letter. Expiry date N/A

Site notice displayed. Expiry date N/A

Advertised in press. Expiry date N/A

RELEVANT POLICIES

Local Plan Review Saved Policies: SD1, BE1, BE4, BE9, S4

Core Strategy Local Plan: DSD, CSD6

Places and Policies Local Plan Submission Draft: RL2, RL10

The Submission draft of the Places and Policies Local Plan (February 2018) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between February and March 2018. The Plan was submitted to the Secretary of State for independent examination in September 2018. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, and given the relative age of the saved policies within the Shepway Local Plan Review (2006), the policies within the Submission Draft Places and Policies Local Plan (2018) may be afforded weight where there has not been significant objection.

Core Strategy Review Submission Draft 2019: SS1, CSD6

The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

NPPF

NPPG:

Conserving and enhancing the historic environment

Paragraph: 001 Reference ID: 18a-001-20140306, Paragraph: 002 Reference ID: 18a-002-20140306, Paragraph: 003 Reference ID: 18a-003-20140306, Paragraph: 008 Reference ID: 18a-008-20140306, Paragraph: 009 Reference ID: 18a-009-20140306,

Design

Paragraph: 001 Reference ID: 26-001-20140306, Paragraph: 002 Reference ID: 26-002-20140306, Paragraph: 004 Reference ID: 26-004-20140306, Paragraph: 012 Reference ID: 26-012-20140306, Paragraph: 041 Reference ID: 26-041-20140306,

Flexible options for planning permissions

APPRAISAL

The application submitted seeks confirmation as to whether the proposed revisions to the approved scheme can be considered 'non-material', in essence whether the revised proposal would represent a legal enactment of the permission which has been issued. This is the sole issue of consideration under the application type submitted.

S96A of the Town and Country Planning Act (1990) (as amended) states that:

(1)A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

(2)In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

(3)The power conferred by subsection (1) includes power— (a)to impose new conditions; (b)to remove or alter existing conditions.

NPPG Guidance states that:

'There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme - an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.'

'This procedure, which has no consultation requirements and minimal notification requirements, cannot be used to make a material amendment.'

The approved shopfront design has glazed doors with a frame to the top and bottom and outer edges of the doors; the central edges of the doors are frameless. The revised proposal has two inward opening doors which are framed on all four sides with a central bar.

Regard is had to Government's guidance that whether an amendment is material must be determined in the context of the overall scheme. In this case as the permission granted relates to a shopfront alone, and the doors of the shopfront are a key feature of the design, it is therefore considered that the change to the design proposed represents a material alteration to the resultant appearance of the works.

Government guidance confirms that as the non-material amendment procedure has no consultation requirements and minimal notification requirements, it cannot be used to make a material amendment. It is therefore recommended that the application be refused.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those

potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

PUBLIC SECTOR EQUALITY DUTY

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

RECOMMENDATION

In light of the above, as the proposed changes to the approved shopfront design are not non-material, it is considered that the application should be refused.

Case Officer:

Report and draft decision notice completed and passed to senior officer.

Name: Louise Daniels Position: Senior Planning Officer Date: 10/04/19

Report and draft decision notice agreed and passed to admin to issue decision.

Name: C Dethier Position: DM Team Leader Date: 2nd May 2019