

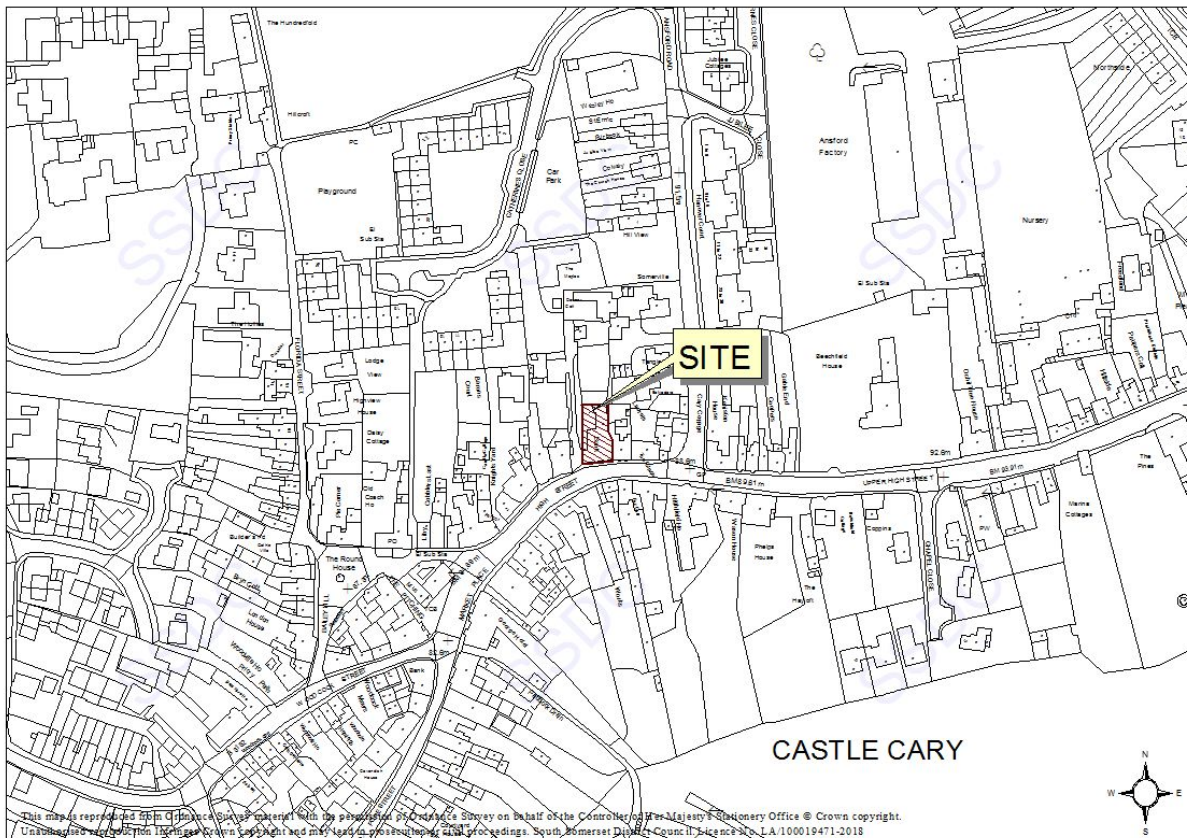
## Officer Report On Planning Application: 18/02664/FUL

<b>Proposal :</b>	Change of use of ground floor from bank to restaurant (Use Class A3 food and drink) to include internal and external alterations (Revised application)
<b>Site Address:</b>	37 High Street Castle Cary Somerset
<b>Parish:</b>	Castle Cary
<b>CARY Ward (SSDC Member)</b>	Cllr N Weeks Cllr H Hobhouse
<b>Recommending Case Officer:</b>	Dominic Heath-Coleman Tel: 01935 462643 Email: dominic.heath-coleman@southsomerset.gov.uk
<b>Target date :</b>	17th September 2018
<b>Applicant :</b>	Mr And Mrs Tim And Jordan Oliver
<b>Agent: (no agent if blank)</b>	Wright Consult LLP Bay Tree Cooks Lane West Cranmore Somerset BA4 4RH
<b>Application Type :</b>	Minor Other less than 1,000 sq.m or 1ha

### REASON FOR REFERRAL

This application is referred to committee at the request of the Ward Member as agreed by the Vice Chair. This will allow the committee to consider the representations received concerning residential amenity from the Town Council and local residents.

### SITE DESCRIPTION AND PROPOSAL



This image reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction is prohibited and may lead to proceedings under the Copyright, Designs and Patents Act 1988. South Somerset District Council Licence No. LA/100019471-2018



The proposal seeks permission for the change of use of the ground floor of a building from a bank to a restaurant (A3) including internal and external alterations. The site consists of the ground floor of a two storey former bank building. The first floor is in use for residential purposes. The building is finished in natural stone to the front and sides, with a brick rear projection. The building is a grade II listed building, located within a conservation area and a development area as defined by the local plan. The property is close to various residential and commercial properties.

## RELEVANT HISTORY

18/02668/LBC - Internal and external refurbishment works (revised application) - Pending consideration

17/03076/FUL - Change of use from bank to A3 food and drink. Internal and external refurbishment to include new window and replacement door to side elevation and new extractor flue to the rear elevation - Application withdrawn 06/09/2017

17/03077/LBC - Internal and external refurbishment to include new window and replacement door to side elevation - Application permitted with conditions 09/10/2017

16/04320/LBC - Refurbishment of existing bank premises - Application permitted with conditions 23/11/2016

16/04319/FUL - Refurbishment of existing bank premises - Application permitted with conditions 23/11/2016

## POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of

the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006 2028 (adopted March 2015).

The policies of most relevance to the proposal are:

#### **Policies of the South Somerset Local Plan (2006-2028)**

Policy SD1 - Sustainable Development  
Policy SS1 - Settlement Strategy  
Policy EQ2 - General Development  
Policy EQ3 - Historic Environment  
Policy TA5 - Transport Impacts of New Development  
Policy TA6 - Parking Standards  
Policy EP11 - Location of Main Town Centre Uses

#### **National Planning Policy Framework**

Chapter 2 - Achieving Sustainable Development  
Chapter 7 - Ensuring the Vitality of Town Centres  
Chapter 12 - Achieving Well-Designed Places  
Chapter 16 - Conserving and Enhancing the Historic Environment

#### **Other Material Considerations**

None

#### **CONSULTATIONS**

**Town Council** - Recommends refusal. They identify the following key issues:

*Noise: the vent system in the main kitchen (for the cooker and other equipment) appears to not be of a standard robust enough for a commercial kitchen. The concern is that windows/doors will therefore be opened disturbing the resident in the maisonette upstairs & neighbours with noise & odours.*

*Noise: the wood fired stove in the secondary kitchen is immediately under the bed of the maisonette's occupant with a fanned vent under her bedroom floor leading to a fanned duct in her bedroom chimney. This has background noise potential and could be a fire hazard. We question the need for the wood-fired stove.*

*Noise: disturbance to upstairs resident & neighbours from the diners arriving/ departing*

*Odours: apart from food preparation in kitchen (see above), the visitor lavatory vent has a long duct designed to emit outside the kitchen window of maisonette. It is not clear why this vent cannot be immediately outside the toilets' blank wall - through the flat roof.*

*Vibration from extraction fans in the kitchens are likely to disturb the upstairs resident*

*Fire Risk heightened by planned installation of an internal wood fired oven*

*Other issues raised by local residents*

*Overlooking: A previously opaque un-opening window has been replaced by an opening clear glazed window in main dining area on East side of building looking directly onto a neighbouring private residence.*

*Opening Hours: Restaurant opening hours will disturb local residents late into the evenings*

*Land use: this building & its location would appear to be much more suitable for adaptation to retail or office space."*

**County Highway Authority** - Refers to standing advice

**SSDC Highway Consultant** -

*The traffic generation and demand for parking connected with the proposed use of the building is likely to be higher than that associated with the extant use of the building but I concur with the statements made by the applicant in the DAS under 'Access' and given the location of the site within the town centre close to public car parks no highways objection is raised.*

**SSDC Conservation Officer**-

*"The generous proportions of the building lend themselves to restaurant use and there are few internal alterations proposed. Furthermore the proposal will provide a positive contribution to the street scene and ensure the building has a viable use into the future, instead of it remaining in its current redundant state. I have no objections to this application."*

**SSDC Environmental Protection Unit** - Initially raised no objections. On receipt of concerns from neighbours and town council they reviewed their recommendation and provided the following response:

*"I am not of the belief that we could sustain a recommendation of refusal, based on the information provided by the applicant:*

*For example*

*Extraction.*

*The developer has advised that the development will utilise a commercial self-condensing filter extract system that requires not exhaust externally to the building. Odours will therefore not be emitted from the restaurant.*

*The type of cooking will not involve the use of highly spiced foods again limiting odours.*

*Operational Management*

*We should maybe consider the hours of operation and would suggest the premises should close at 23.00hrs, and not be allowed to open all day so a break between lunch and evening service times should be considered.*

*No take way service shall be provided, all foods purchased to be consumed on the premises.*

*Doors and windows to remain closed at all opening times, the applicant should give due consideration to forced air ventilation and noise.*

*No live music of any sort shall be played on the premises, ambient background pre-recorded music only shall be played on the premises.*

*Ventilation*

*The stench pipe serving the toilets shall be extend above eaves height of the building.*

*The proposed two extractor fan outlets shall be acoustically treated to prevent any discernible noise affecting the upstairs apartment."*

The applicant responded to their points at which point they confirmed that they had no further comments to make.

**SCC Archaeology** - No objections

## **REPRESENTATIONS**

Letter of objection were received from the occupiers of 15 properties in Castle Cary/Ansford and from agents on behalf of such occupiers. One letter of objection was received from the occupier of a property in Horsington and one letter of objection was received from an unknown address. Objections were raised in the following areas:

- Adverse impact on residential amenity by way of noise, vibration and odour
- Increased fire risk
- No provision for disabled access
- Lack of parking and exacerbating existing traffic problems
- Increased pressure on existing services
- No need for additional restaurant use
- Continued need for a bank use
- Conservation officer previously rejected A3 use of premises

## **CONSIDERATIONS**

### **Principle of Development**

The proposal seeks permission for a restaurant use in a town centre location. Restaurants are defined as main town centre uses by the NPPF, and local plan policy EP11 makes it clear that the provision of such uses in town centres will be supported. The policy states that proposals should be of a scale appropriate to the size and function of the town centre and help to sustain and enhance the vitality and viability of the centre. This proposal is considered to accord with this policy and the aims and objectives of the NPPF and, as such, the principle of development is considered acceptable.

### **Visual Amenity**

As the building is a grade II listed building and within a conservation area the SSDC conservation officer was consulted in regard to visual amenity. She raised no objections to the proposal, noting that the generous proportions of the building lend themselves to restaurant use and there are few internal alterations proposed. She states that the proposal will provide a positive contribution to the street scene and ensure the building has a viable use into the future, instead of it remaining in its current redundant state. On this basis, it is considered that there will be no adverse impact on the character and setting of the listed building. The proposal will also have no adverse impact on the character of the conservation area.

As such, the impact on visual amenity is considered to be acceptable in accordance with policies EQ2 and EQ3 of the South Somerset Local Plan.

### **Residential Amenity**

There has been considerable concern expressed by local occupiers and the Town Council in relation to the potential impact of the proposed use on neighbouring residential occupiers, including the first and

second floor residential use in the same building. An application for a change of use to a restaurant use earlier in the year was withdrawn when the SSDC Environmental Protection Unit raised objections to the scheme, make the following comments:

*"After further consideration of this application, I completed a site visit on the 22nd August 2017. Following this visit and taking into account the technical information provided by the applicant, I am of the opinion that this application will have a detrimental effect on the amenity of the residential premises situated on the first floor of the building. I would therefore recommend refusal of this application on the grounds of amenity.*

The current application has sought to address these concerns in this application by providing a sound insulation report and specifying in more detail how any kitchen operation would work. The SSDC Environmental Protection Unit has considered the scheme in detail and concluded that their concerns have been addressed, subject to certain controls:

- The development will utilise a commercial self-condensing filter extract system that requires not exhaust externally to the building. Odours will therefore not be emitted from the restaurant. *A condition can be imposed on any permission to ensure there is no external exhaust.*
- The premises should close at 23:00 hours and should have a break between lunchtime and evening a service. *An opening hours condition can be imposed to achieve this.*
- No takeaway service should be provided. *A condition could be imposed to secure this.*
- Doors and windows to remain closed at all opening times. *A condition could be imposed to secure this.*
- The stench pipe serving the toilets should be extended above the eaves height of the building. *A condition could be imposed to secure this.*
- The proposed extractor fan outlets should be acoustically treated to prevent any discernible noise affecting the upstairs apartment. *A condition could be imposed to secure this.*

Subject to the above specified conditions being imposed on any permission issued, it is considered that the impacts on neighbouring occupiers (including the occupier of the upstairs apartment), in relation to odour and noise will be acceptable.

Whilst there will inevitably be some noise and disturbance when the restaurant closes, this must be expected in a town centre location. There are existing similar uses in the immediate vicinity, which are either subject to no planning controls at all or similar to those suggested on the current scheme. As such, it would be unreasonable to refuse permission for the proposed use in relation to the amenity impacts of the use on other nearby properties.

On this basis, subject to various conditions and notwithstanding the concerns of neighbouring occupiers, it is not considered that the proposal would have any significant adverse impact on the residential amenity of any adjoining occupiers in accordance with policy EQ2 of the South Somerset Local Plan.

## **Highways**

The highway authority was consulted and referred to their standing advice. The SSDC Highway Consultant therefore considered the scheme in detail and was content that there would be no adverse impact on highway safety arising from the lack of parking provision, given the town centre location in reasonable proximity to public car parks. As such, notwithstanding the local concern raised in this area, it is considered that there will be no adverse impact on highway safety in accordance with policies TA5

and TA6 of the South Somerset Local Plan.

### **Other Issues**

Local concerns have been raised in relation to an increased fire risk from the proposed restaurant use. However, this is a matter that must be controlled through the building regulations and cannot form the basis for a planning reason for refusal.

A local concern has been raised in relation to the lack of provision for disabled access. Whilst this is a legitimate concern, it is an existing situation that disabled access to the building is difficult for whatever publicly accessible use that the building is put to, whether it is bank, a shop or, indeed, a restaurant. It must be for the developer to ensure that they comply with all relevant legislation in relation to accessibility.

A concern has been raised locally as to the potential for increased pressure on existing services. However, it is not clear in what way the proposed use would have any demonstrably impact on local services than the extant use of the building.

A concern has been raised that there is no need for additional restaurant use in Castle Cary. However, as described above, the use is considered to be appropriate for a town centre location in terms of local plan and national policy. It must, therefore, be for the market to dictate whether there are too many restaurants and not for the planning system.

A local concern has been raised that there is a continued need for the existing bank use. Whilst there may be a lack of banks in Castle Cary, the property in question has not operated as a bank for some time and it is not considered that by refusing an alternative use the premises is likely to revert to the bank use. It is notable that the building could change use from A2 (financial institution) to A1 (retail) with no requirement for a planning application.

Finally a neighbour has raised a concern that the SSDC conservation officer previously rejected A3 use of premises. However, the SSDC conservation officer has never objected to the principle of a change to an A3 use, merely the detail of previous schemes.

A concern has been raised by a neighbouring occupier in relation to an existing window, which has been made openable and non-obscurely glazed. However, no planning permission would have been required to make the window openable, as it clear always was, it was just painted shut during the use of the building by the previous bank occupier. The change of the window from obscure glazing to clear glazing, would arguably have required planning permission, however a decision was taken that it would not be expedient to pursue enforcement action against this change as the window faces onto an area of no-man's land and a blank wall on a neighbouring property. The use of clear glazing therefore raises no issues of any overlooking.

### **Conclusion**

The proposed development is considered to be acceptable in principle and will have no adverse impact on the character of the conservation area or the listed building, and will cause no demonstrable harm to residential amenity or highway safety in accordance with policies SD1, SS1, EQ2, EQ3, TA5, and TA6 of the South Somerset Local Plan.

### **RECOMMENDATION**

Approve for the following reason:

01. The principle of development is considered to be acceptable in this location and the proposal, by

reason of its size, scale and materials, respects the character of the conservation area, and causes no demonstrable harm to residential amenity, the character and setting of the listed building, and highway safety in accordance with the aims and objectives of Policies SS1, SD1, EQ2, EQ3, TA5, and TA6 of the South Somerset Local Plan and the aims and provisions of the NPPF.

**SUBJECT TO THE FOLLOWING:**

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

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out in accordance with the following approved plans: 6121W-15B and 6121W-16C dated 28 August 2018 on the Council's website.

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

03. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification ), there shall be no external exhaust serving a kitchen extraction system fitted to the building unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of residential amenity and in accordance with policy EQ2 of the South Somerset Local Plan.

04. The use hereby permitted shall not be open to customers outside the following times:

0900 - 1500 and 1700 - 2300, Tuesdays - Saturdays  
1100 - 1400 Sundays.

Reason: In the interests of residential amenity and in accordance with policy EQ2 of the South Somerset Local Plan.

05. There shall be no operation of a takeaway service from the restaurant use hereby permitted.

Reason: In the interests of residential amenity and in accordance with policy EQ2 of the South Somerset Local Plan.

06. Other than for access and egress, all doors and windows shall remain closed when the restaurant is open to the public.

Reason: In the interests of residential amenity and in accordance with policy EQ2 of the South Somerset Local Plan.

07. Prior to the first use of the restaurant use hereby permitted the stench pipe serving the toilets shall be extended above the eaves of the building in accordance with details to be agreed in writing the Local Planning Authority.

Reason: In the interests of residential amenity and in accordance with policy EQ2 of the South Somerset Local Plan.

08. Prior to the first use of the restaurant use hereby permitted the proposed extractor fan outlets shall be acoustically treated in accordance with details to be agreed in writing the Local Planning Authority.



Reason: In the interests of residential amenity and in accordance with policy EQ2 of the South Somerset Local Plan.

---