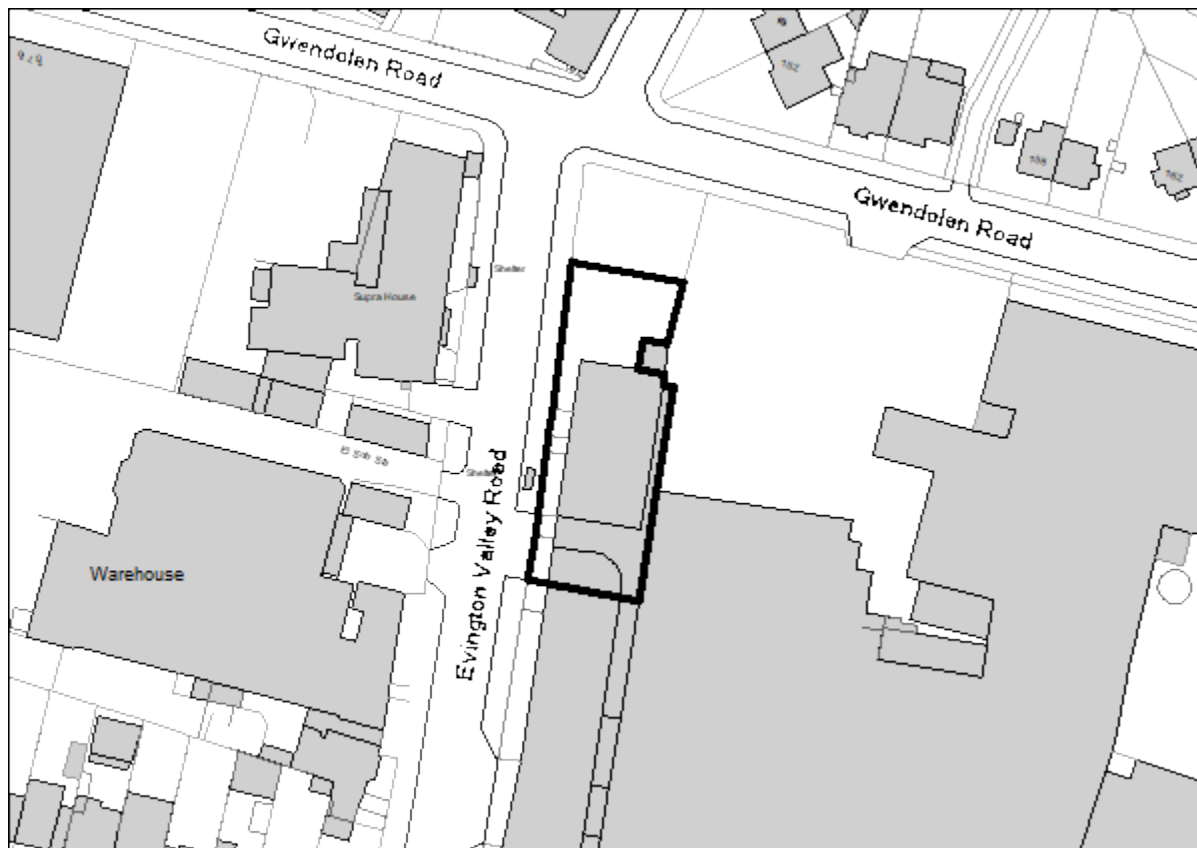


COMMITTEE REPORT

Recommendation: Conditional approval	
20240227	115 Evington Valley Road, Dunlop Business Centre
Proposal:	Change of use of part of industrial building (Class B2) to clothing retail shop (Class E) (Amended 03/05/2024)
Applicant:	Mr Patel
View application and responses:	https://planning.leicester.gov.uk/Planning/Display/20240227
Expiry Date:	3 October 2024
SS1	WARD: Spinney Hills



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Summary

- The application is brought to committee due to 7 objections being received;
- The main issues are: the acceptability in principle of the change of use and highways/parking impacts;
- The application is recommended for conditional approval.

The Site

The application site forms part of the ground floor of a larger building known as Dunlop Works at 115 Evington Valley Road. The site/area is generally in commercial/industrial

use. In policy terms the site is within a Potential Development Area (PDA) (PS09b (18) – Evington Valley Road).

The site is allocated for proposed mixed residential and employment uses in the Submission Draft Local Plan (Policy Ho01- site number 222).

The application site also includes an area of hardstanding at the side of the building.

The building is on Leicester City Council's Local Heritage Asset Register due to its historic and architectural interest. It appears on Leicester City Council's Heritage at Risk Register as a "Category C Risk" to signify slow decay with no solution agreed. There is an Article 4 Direction in place which removes permitted development rights for demolition and painting.

The site is in Flood Zone 2 and 3a.

The Proposal

The proposal is to change of the use of the site to a retail store (Class E). The application explains that the store would sell Asian clothing. The internal floorspace totals 370sqm.

The site plan indicates the hardstanding would be used as 7 parking spaces, including 1 disabled space which has extra width. The proposed layout was altered during consideration of the application in response to a request from the Highways Authority.

Proposed hours of use are 1000-2000 daily.

The use would accommodate 3 full-time and 2 part-time employees.

A retail sequential test accompanied the application.

Policy Considerations

National Planning Policy Framework 2023

- Paragraph 85 (Economic growth)
- Paragraph 90 (Support town centres)
- Paragraph 91 (Sequential test)
- Paragraph 92 (Accessible sites)
- Paragraph 95 (Sequential test failure)
- Paragraph 108 (Transport impacts and patterns)
- Paragraph 114 (Assessing transport issues)
- Paragraph 115 (Unacceptable highways impact)
- Paragraph 116 (Highways requirements for development)
- Paragraph 135 (Good design and amenity)
- Paragraph 173 (Flood risk considerations and SuDS)
- Paragraph 195 (Heritage as an irreplaceable resource)
- Paragraph 200 (Heritage statement)
- Paragraph 201 (Considering impact on heritage assets)
- Paragraph 203 (Sustaining significance of heritage assets)
- Paragraph 209 (Non-designated heritage assets)

Core Strategy 2014 and Local Plan 2006

- Core Strategy policy CS02 (Environment & drainage)
- Core Strategy policy CS03 (Good design)
- Core Strategy policy CS10 (Employment Opportunities)

Core Strategy policy CS11 (Retail hierarchy)
Core Strategy policy CS18 (Historic environment)
Local Plan saved policy AM01 (Impact on pedestrians)
Local Plan saved policy AM11 (Parking provision)
Local Plan saved policy PS09b (Potential development areas)
Local Plan saved policy PS10 (Residential Amenity)
Local Plan saved policy PS11 (Protection from pollution)

Further Relevant Documents

Leicester City Council – Leicester Street Design Guide 2020
Local Plan Appendix 001 – Vehicle Parking Standards
Leicester City Council - Local Heritage Asset Register 2023
GOV.UK Planning Practice Guidance – Noise <https://www.gov.uk/guidance/noise--2>
GOV.UK Planning Practice Guidance – Flood Risk and Coastal Change
<https://www.gov.uk/guidance/flood-risk-and-coastal-change>

Consultations

Highways

No objections. One suggestion was made, to amend the layout of the parking.

Noise Pollution

No objections.

Representations

Objections have been received from 7 separate addresses, raising the following issues:

Principle of Development

- Retail not required locally;
- Use/viability of site over long term needs to be looked into;
- Should be a city centre shop;
- Not convinced by sequential test; East Park Road and Green Lane Road have clothing shops but they are struggling;
- Considered that there are 23 other similar stores nearby already;

Highways

- Not enough storage, parking or loading space and the site is near to schools – there will be parking chaos, loading on the highway and parking on the main road and highway safety impacts;
- Parking is already dangerous and there is already heavy traffic in the area due to other commercial uses in the area. Buses can't get through already;

Amenity

- Opening hours of 10:00-20:00 should be significantly reduced to limit impacts on local area and on amenity of nearby residents. Other stores in the area have shorter opening hours;

Other

- Whole site needs heritage protection – shopfronts, signs or shutters would affect heritage of the site;
- No canteen/staff area, office or toilets on the plan;
- Work was being carried out prior to the application;
- Property may be a supermarket grocery shop or other retail rather than a clothing shop;
- Query on site ownership/address;
- Precedent would be set for other shops if approved; and
- Concern on lack of letters sent about the development.

Consideration

Principle of Development

NPPF paragraph 91 and Core Strategy policy CS11 seek to locate main town centre uses such as the proposed retail unit in a town centre in the first instance. This site is an out of town centre site. As such, a retail sequential test is required. This involves undertaking an assessment of whether there are no other available units in nearby town centre areas that could accommodate the proposed use, as they would be a more appropriate for a retail shop.

The applicants have submitted a retail sequential test with the application. The test has assessed whether there are any available alternative units available in 4 nearby town centres – East Park Road (south), St Saviours Road (west), St Saviours Road (east), and Evington Road District Centre. The document has provided a list of the 146 units in each of those 4 town centres. There are very few vacant units that were found in those centres, and those that were, are shown to be much smaller than the current proposal and therefore would not represent a suitable alternative. I consider that there are no alternative suitable and available sites in town centres that could accommodate the proposed development.

At 370 sqm the proposed shop is below the threshold set out in the NPPF at which a retail impact assessment would be required.

The building is currently vacant and in a poor state of repair. Whilst the PS09b policy covering this site does not specifically designate this area for retail in its list of priority land uses for the area, the proposed use would secure a use for the vacant building of heritage value and increase the potential for jobs to be provided at the building. The applicants have demonstrated that the proposal has met the requirements of the sequential assessment test.

The policy allocation in the emerging Local Plan confirms the suitability of the locally listed building for mixed use conversion (noting that the Plan is not yet adopted so limited weight should be afforded to this).

In summary there would not be a policy objection to the principle of the proposed retail use in this location.

I acknowledge objectors raised concerns about the principle of the proposed use. I understand that objectors have indicated that the use should be accommodated in the

city centre. However the city centre is some distance from the application site and as such it would not be reasonable to require that as an alternative location for a proposal of this modest scale.

Comments were also raised in terms of there being a high number of other similar units in the area, the opinion that there is no need for this type of shop, and the view that other units in the area are not always successful. However, this planning application has to be assessed on its own planning merits having regard to the policies in the development plan and the business case for any application is not a planning matter in this case, nor is competition with other shops.

A representation also desired for the long term use/viability of the area to be assessed. The assessment of the wider site area is considered through the local plan process and the proposed use (Class E) is considered to be compatible with the emerging local plan allocation.

As such the principle of the proposal would be acceptable and policy compliant.

Highways/Parking

Context

NPPF paragraphs 108, 114, and 116, Core Strategy policies CS14 and CS15, Local Plan saved policies AM01, AM02, AM11, and PS10 and Local Plan Appendix 001 – Vehicle Parking Standards require developments to provide a sustainable and effective transport network, appropriate levels of parking for non-residential development, ensure suitable access, and preserve safety for highway users including motorists, cyclists and pedestrians.

As noted in representations, the wider area has a mix of uses including industrial, a school and residential. Generally the building footprint in the area is dense and the wider area may be vulnerable to high demand for on-street parking with potential for high traffic flows on and around Evington Valley Road.

Assessment

The Highways Authority consider that the development is not likely to result in any significant highways issues and I do not consider that a retail clothing store of this size would be likely to attract such high numbers of visitors travelling by private car that would result in significant or unacceptable on-street parking demand. I consider that a significant proportion of customers would be reasonably local so may walk, cycle or take the bus to visit the shop. The store would not be likely to have a significantly greater impact over and above what may already be caused by this part of the building being used within the existing use class B2. There would be parking for staff which would ensure that any staff can park off-street and with some additional parking for customers or space for occasional deliveries. Whilst there may be existing highway safety issues occurring in the area including parking on the pavement, the proposal would not be adding any additional floorspace to the existing layout of the commercial building. Overall I consider this development would not be of a scale that would be likely to cause unacceptable further impacts and therefore consider the development is acceptable in terms of highways/parking impacts.

There would be 7 parking spaces and I recommend that a condition can secure the parking layout to be implemented prior to the new use commencing and for this area to be retained for parking. The spaces are to be laid out in accordance with the recommendation from the Highways Authority officer. The spaces are of acceptable

width and I am satisfied that there is sufficient depth within the site for cars to be parked in the spaces whilst having sufficient room to manoeuvre in and out of the site.

I acknowledge the concerns raised in representations regarding parking congestion, traffic density, and resulting impacts in terms of safety including parking on pavements and impacts on the bus route and given the school nearby to the south. However, bearing in mind the authorised use and for the reasons given above, I would not conclude that this development would make any significant additional impacts on highway congestion or safety and there would not be a reason to withhold permission on highways grounds.

Amenity of the Area

Local Plan policy PS11 requires developments to avoid impacts to residential amenity in terms of noise/disturbance. Generally, use as a retail clothing store would not cause a significant amount of noise/disturbance impacts and there are no residential properties adjoining the site.

The noise pollution team have advised that they have no issues in relation to noise impacts.

As there are residential properties opposite on Gwendolen Road, I consider that it would be appropriate to condition the hours of use that the applicant proposes to avoid activity at the site during the night-time that may be perceptible to nearby residents. The proposed hours of use, 10:00am – 8:00pm daily, would be reasonable and appropriate. I acknowledge a concern raised in an objection regarding hours of use however I would not consider there would be any unacceptable impacts from the proposed hours.

Building Conservation

The building is of architectural and historic interest and is on the local heritage list (ref: LL/278). The heritage interest of the building was also noted by an objector. As such, if the building were brought back into use, this would result in a small benefit in terms of protection from potential anti-social behaviour due to increased activity at the site and the likelihood of improvements in the maintenance of this part of the building.

As there are no physical alterations to the building and no significant physical works to the adjacent hardstanding, there are no other concerns or impacts in terms of the heritage of the site from the proposal. A note to applicant on the decision notice can highlight that any external alterations or signage would require further consent which would be further assessed through another application including any heritage impacts.

Conditioning the Proposed Use Within Class E

The proposed use would fall in Class E, within which there are a variety of uses that may have different impacts from the proposed clothing retail store. I note a comment in objections stating the development is likely to be a supermarket rather than clothing retail.

The agent has agreed in writing to a condition on the approval restricting the use to a clothing retail store only. Therefore, due to this there would be a requirement for consideration of a further application if the use was subsequently sought to be changed to any other use other than a retail clothing shop. This would then be further considered at the time of any future application.

Other Issues

Whilst the site is in an area of flood risk, the change of use would not significantly alter the flood risk impacts for the building and there would be no physical works that would impact on drainage or flood risk.

An objection was concerned regarding a precedent being set for other changes of use in the area if this application is approved. However, the detailed context of each application is assessed on its own merits so this would not be a viable or valid reason to withhold permission for this application.

An objection was concerned regarding the owner's address on the certificate of ownership and whether this was correct. However the certificate is complete and it has been signed by the applicant. There is no evidence that has been submitted to suggest it is incorrect. As such there is no reason to withhold permission on this issue.

An objection was concerned with the amount of letters sent to neighbours. However, all neighbours adjacent to the site were notified at the start of the application process. 2 site notices were displayed at the start of the application process advertising the application, one directly outside the site on Evington Valley Road and one on Gwendolen Road. As such the application has completed the requirements for publicity.

An objection was concerned with work having been carried out prior to the application. Notwithstanding this, applications would be considered in the same manner on the basis of the proposed drawings and proposed use in accordance with the same planning merits. If in future works take place not in accordance with any permissions, they may be reported to the council's planning enforcement team.

An objection was concerned that the detailed layout of any canteen or toilets were not provided. However I am satisfied that these do not represent significant planning issues and the proposed plans can be reasonably assessed on the basis of the proposed use.

Conclusion

The proposed use has passed the retail sequential test and the principle of a shop at this site is therefore acceptable and will lead to re-use of a non-designated heritage asset. The proposal would not be likely to cause significant impacts to the area in other respects.

I therefore recommend approval subject to the following conditions.

CONDITIONS

1. The development shall be begun within three years from the date of this permission. (To comply with Section 91 of the Town & Country Planning Act 1990.)
2. The parking/service area shall be marked out in accordance with the Proposed Plan drawing no PL77 A201 Rev B before the occupation of any part of the development and shall be retained and kept available for that use thereafter. (To ensure that parking/servicing can take place in a satisfactory manner; and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)

3. The use shall not be carried on outside the hours of 10:00 - 20:00 daily. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS11 of the City of Leicester Local Plan.)
4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, or any order amending or revoking and replacing that Order with or without modification, the premises shall not be used for any other use than a clothing retail shop unless agreed in advance in writing by the Local Planning Authority. (To enable consideration of the amenity, parking and highway safety impacts of alternative Class E uses, in accordance with Policies CS03 and CS15 of the Leicester Core Strategy (2014) and saved Policies PS10 and PS11 of the Local Plan (2006).)
5. Development shall be carried out in accordance with the following approved plans:
Proposed Plan, Drawing no PL77-A200, Rev B, received 07/05/2024
Proposed Plan, Drawing no PL77-A201, Rev B, received 07/05/2024
(For the avoidance of doubt).

NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process (and/or pre-application).
The decision to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2023 is considered to be a positive outcome of these discussions.
2. Please note that any signage on the building would require a further permission for advertisement consent to be granted prior to its installation. Furthermore any external alterations to the building may require a further planning permission.