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## Appeal Decision

Hearing held and site visit made on 16 October 2012

**by Jennifer Armstrong JP BA FRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 October 2012

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**Appeal Ref: APP/Z1775/A/12/2178397**  
**148 Commercial Road, Portsmouth, PO1 1EX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Costa Coffee against the decision of Portsmouth City Council.
  - The application ref. 12/00386/FUL, dated 3 April 2012, was refused by notice dated 7 June 2012.
  - The development proposed is change of use to allow mixed use (A1/A3) coffee shop with associated outdoor seating.
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### Decision

1. The appeal is allowed and planning permission is granted for a change of use to allow mixed use (A1/A3) coffee shop with associated outdoor seating at 148 Commercial Road, Portsmouth, PO1 1EX in accordance with the terms of the application, ref. 12/00386/FUL, dated 3 April 2012, and the plans submitted with it (1.1A, 1.2A, 2.1A), subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The premises shall only be used as a coffee shop serving hot and cold drinks, sandwiches and light refreshments for consumption on or off the premises.
  - 3) The premises shall not be open to customers outside the following hours:  
07.00 - 21.00 Mondays to Saturdays  
09.00 - 18.00 Sundays

### Main Issue

2. The Council's decision notice did not make reference to the proposed outdoor seating and it was confirmed at the hearing that there are no objections to this aspect of the proposal. Therefore, the main issue is the likely effect of the proposal on the retail function of the city centre, having regard to relevant planning policies.

### Reasons

3. The appeal site is in the stretch of Commercial Road at the centre of the city's main shopping area. The unit is vacant although I understand has only been so for a short time and was in Class A1 use at the time the application was made.

4. The policy quoted in the decision notice is PCS4 of the Core Strategy (January 2012), the relevant sentence being the final one in the section relating to the Commercial Road shopping area. This states that in order to retain its principle function as a shopping destination, at least 75% of the frontage in this locality must remain in use as shops. The preamble to the policy explains that this derives from the Portsmouth Shopping Study Update which notes that the town centre has in recent years suffered from a lack of development in retail floor space, leading to its decline as a shopping centre and a slippage in national retail rankings. The Study recommended that there should be no further loss of retail units to non-retail functions in what is termed the Commercial Road shopping area, which also includes Arundel Street, Edinburgh Road and the Cascades Centre.

5. The appellant has argued that the policy is not consistent with the National Planning Policy Framework (March 2012) which, among other things, seeks to ensure that Local Plans promote competitive town centres and also makes reference to the defining of primary and secondary frontages. In response, the Council stated that this information was available in the draft Framework during the examination of the Core Strategy. In their view, the overall aim of policy PCS4 is positive but, in the particular circumstances which prevail, restrictions are needed to ensure its successful implementation. While I acknowledge these different interpretations, the Framework allows full weight to be given to policy PCS4 for 12 months (from March 2012) even if there is a limited degree of conflict.

6. The appellant has also questioned the Council's figures concerning the percentage of frontages in retail use but on the evidence before me I accept that, if permission were granted, the policy would not be compiled with. Much of the appellant's case concentrates on the popularity of coffee shops, the high footfall associated with them, and the interest and vitality they add to a town centre. However, these arguments do not directly address the Council's concerns which relate not to the nature of the proposed replacement but to the straightforward loss of an A1 use. Put another way, their case rests essentially on the retention of the centre as a purely shopping destination rather than on an assessment of the contribution made by non-shopping uses.

7. Within this context, I have taken into account that the proposal is not for a change to a wholly A3 use but rather to a mixed A1/A3 use, with evidence indicating that a significant proportion of sales would relate to snacks and drinks not consumed on the premises and would also include such items as coffee beans and coffee machines. The unit is small, the loss of retail frontage having been calculated as 3.7m and there is only one other non-retail unit within this stretch of frontage.

8. I appreciate that losses, however small, add up and I note the words quoted from another appeal decision that "a line has to be drawn somewhere". But that appeal (APP/Z1775/A/12/2176914) related to a change of use, in a different part of the town, from A1 to A5, and was therefore of a materially different nature and order to the proposal before me. I have also had regard to the fact that although policy PCS4 is numerically based, it is still necessary to assess each application on its merits. Indeed, this was done earlier in the year when the Council concluded that a change from A1 to A3 use at 229-231 Commercial Road was acceptable.

9. I acknowledge the Council's underlying concern for the continuing status of the Commercial Road shopping area. However, taking into account the above findings, my view is that its retail function would be unlikely to be harmed by the specific proposal before me. While retail uses may remain below the 75% figure, I do not believe that the granting of permission would prejudice the wider objectives of policy PCS4. I stress that I have reached my decision on the merits of this particular case and that no precedent is set for other proposals.
10. As agreed at the hearing, conditions are necessary to ensure that, having regard to Circular 11/95, the use is properly controlled and the opening hours take account of the amenity of any nearby residents.
11. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be allowed.

*J. Armstrong*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Paul Williams BSc DipTq MRTPI Appellant's agent  
Emma Hobbs BSc ARKS Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Gary Christie Planning assistant  
David Hayward BA MSc Senior planning policy officer

## DOCUMENTS

- 1 Extract from city centre land use survey
- 2 City Centre Masterplan – draft Supplementary Planning Document
- 3 Appeal Decision re 129 Albert Road, Southsea

## PLANS

- A Application plans: Layout plans:1.1A and 1.2A, External elevations: 2.1A
- B City centre land use survey (July 2012)