

UTT/17/3078/FUL – (STANSTED)

(Referred to Committee by Cllr Sell. Reason: Due to traffic impact)

PROPOSAL: The proposal would involve the change of use of the site from a retail (Class A1) use to a mixed use restaurant/takeaway (Class A3/A5); and installation of extraction/ventilation equipment and new door opening. The proposed restaurant/takeaway will open between 11:00 and 23:00 7 days a week.

LOCATION: 22 Cambridge Road, Stansted

APPLICANT: Mr A Pancholi

AGENT: Miss Emma Morrison

EXPIRY DATE: 18 April 2018

CASE OFFICER: Emmanuel Allanah

1. NOTATION

1.1 Within Development Limits, Ground Water Protection Zone 1 and Stansted Airport within 6km of Airport.

2. DESCRIPTION OF SITE

2.1 The application site is a two storey building with the use of the ground and first floor for retail use. It is located on the eastern side of Cambridge Road and is made up of two storey element at the front of the building, two storeys to the rear and a single storey, flat roofed element between.

2.2 At the front of the property the first floor is in residential use. This will be retained as a separate flat and is not included in the change of use application. The rear first floor element is included within the retail use and is proposed to form part of the restaurant/takeaway.

2.3 There is an access running under part of the first floor of the site which leads to the rear communal service yard and bin store and provides access to the residential flat.

2.4 The site is bounded to the immediate north by residential dwelling and a doctor's surgery is adjacent to the south of the site. To the rear is bound with an area with consent for a mixed use development including 10 no. dwellings, a retail unit and a commercial building (planning reference number UTT/16/2632/FUL).

2.5 The area is characterised by mix use namely retail (A1 and A2), food and drink and residential uses.

2.6 The application site is currently vacant and was formerly in use as a Class A1 convenience food store.

3. PROPOSAL

3.1 The proposal would involve the change of use of the site from a retail (Class A1)

use to a mixed use restaurant/takeaway (Class A3/A5); and installation of extraction/ventilation equipment and new door opening. The proposed restaurant/takeaway will open between 11:00 and 23:00 7 days a week. It is anticipated that the bulk of the custom to the site will be for takeaway and seating for up to 36 customers would be provided at the front of the unit for eating in.

4. ENVIRONMENTAL IMPACT ASSESSMENT

4.1 Not applicable because it is not required for such type of proposed development in accordance with EIA Regulation 2017 (As amended).

5. APPLICANT'S CASE

5.1 The proposed application is supported with the following documents namely:

- Planning, Design and Access Statement
- Noise Impact Assessment
- Vent or Extraction Statement

6. RELEVANT SITE HISTORY

- 6.1
- UTT/1656/07/FUL – For the erection of a refrigeration plant to the side elevation, installation of a new entrance door and external security shutter to the front elevation was approved on 14 November 2007.
 - UTT/1350/99/FUL – For the erection of a new plant enclosure to contain refrigeration plants was approved 12 April 2000.

7. POLICIES

Uttlesford Local Plan (2005)

Policy S1 – Development limits for the main Urban Areas

Policy GEN1 – Access

Policy GEN2 – Design

Policy GEN4 – Good neighbourliness

Policy GEN88 – Vehicle Parking Standards

Policy RS2 – Town and Local Centres

Policy SM1 – Local Centres

National Policies

National Planning Policy Framework

8. PARISH COUNCIL COMMENTS

8.1 Stansted Parish Council object to this proposed development due to the following reasons:

Risk of further increased incidents of dangerous/illegal parking as situated adjacent to a pedestrian crossing creating an increased risk to the safety of pedestrians. Patrols by the Parking Partnership are not often enough to eliminate these risks. A new housing development is being built adjacent to these premises and we have already raised concerns regarding vehicles accessing/exiting the new site without the extra traffic flow and parking that this application would create. GEN 4 - Smell, noise and nuisance to neighbouring residents. We would ask that a noise and

disturbance survey is carried out.

If this application is going to be approved then we would like to request the following conditions are applied:

Close by 10pm daily

CCTV is installed outside premises

A daily clean around the site is carried out to keep the area free of litter

An appropriate extracting system is installed

9. CONSULTATIONS

Essex County Council Highways Authority

9.1 No objection on transportation and highways terms.

UDC Environmental Health Officer

9.2 The Environmental Health Officer confirmed that the premises are located in close proximity to residential accommodation, both existing and under construction, and adequate measures to prevent loss of amenity from noise and cooking odours are required.

Details have been submitted of the proposed mechanical extract ventilation system, which proposes to discharge to the outdoor air 1m above the flat roof on the rear elevation.

The nature of the cooking proposed is dry baking only, and the proposal considers that odour control, other than that provided by grease filtration, is not necessary. I would disagree, as the nature of the proposed cooking may produce odours, for example from the inclusion of garlic, herbs and meat. In view of the sensitivity of the nearby premises, and the relatively low extract outlet, activated carbon filters or other suitable means of odour removal should be incorporated into the extraction system.

The issue relating to the generation of odour has been overcome following further information submitted to the Environmental Health Officer for their consideration. In conclusion the Environmental Health Officer recommended that the proposed scheme to be approved subject to relevant planning conditions below.

The proposal is for the premises to be open to the public until 23:00hrs, which is one hour later than the previous commercial use at the site. Restricting the closing time to 22.00hrs would allow time for clearing up and for customers to disperse prior to 23.00hrs, after which nearby residents would have a reasonable expectation of a reduction in noise levels.

Conditions:

1. The extract system serving the premises shall be installed in line with the specification as set out in the submitted MBH Annex B Document dated 9th January 2018. The equipment installed shall be used, retained.
2. No development shall take place until a scheme for protecting nearby dwellings from noise from plant, machinery and equipment associated with the approved development has been submitted to and approved in writing by the local

planning authority. The scheme shall follow the recommendations identified in Philip Acoustics Ltd report (Ref: 17242-002 Revision A) dated February 2018. The equipment shall not be used until such a scheme has been implemented in accordance with the approved details and it shall be retained in accordance with those details thereafter.

3. The cooking process shall cease to be operated if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority.
4. The combined rating level of all plant, machinery and equipment (including fans, ducting and external openings) to be used by reason of the granting of this permission, when assessed in accordance with BS:4142: 2014 shall not exceed the background noise level of 43dBA L90 15min between 07:00 – 23:00 and 39dBA L90 15min 23.00 – 07:00
5. In the event that the nature of the cooking type changes, full details of the change shall be submitted to the LPA together with details of alterations to the odour control system if requested.

10. REPRESENTATIONS

- 10.1 The application was notified to eighty four surrounding occupiers and site notices displayed.

Twenty four letters of objection received from neighbouring properties; and a petition letter signed by fifty seven neighbouring properties. The summary of their reasons for objection include the following:

- The proposal would generate traffic during both peak and off peak hours
- Noise
- Road safety
- Cooking smell
- Nuisance
- Generation of litters
- Parking problems
- Loss of residential floor space

11. APPRAISAL

The issues to consider in the determination of the application are:

- A The principle of the development (NPPF, Local Policy S1)
- B Whether the proposal would harm the character of the building or the amenity of the adjoining occupiers (NPPF, Local Policies GEN2 and GEN4)
- C Highways and Traffic impact (Local Policies GEN1 and GEN8)

A The principle of the development (NPPF, Local Policy S1)

- 11.1 In land use terms the application site is within development limits area which is characterised by mixed uses namely retail, offices, residential buildings, Petrol Station, Public House and other commercial premises.
- 11.2 The application site ground floor is currently vacant but was formerly in use as a Class A1 convenience food store. The first floor is in residential use. This will be

retained as a separate flat and it is not included in the proposed change of application. The rear first floor element is included within the retail use and is proposed to form part of the restaurant/takeaway. For the benefit of policy consideration; the proposal would involve the change of use of the site from a retail (Class A1) use to a mixed use comprising of restaurant/takeaway (Class A3/A5).

- 11.3 In policy terms the application site is located within a designated local centre for example; Cambridge Road and Lower Road area are identified as local centres. Policy SM1 states that within Cambridge Road and Lower Street change of use of the ground floor of existing shops, restaurants, public houses and hot food take-away to residential uses will not be permitted, unless both the following criteria are met:
- (a) The existing use is surplus to current and foreseen future requirements; and
 - (b) The property has been widely advertised for at least six months on terms reflecting its use.
- 11.4 In consideration with Policy SM1; the proposed change of use at ground floor would not lead to loss of shop, public houses and hot food take-away because it does not involve the use of the ground floor to residential use. Instead it is a proposal which is not in conflict with the objective of the Policy for example; which protects change of use of non-residential uses such Class A1 (retail), Class A3/A5) respectively.
- 11.5 Policy RS2 asserts that retail, commercial and community uses or mixed use development including a residential element will be permitted in the centres such as in Standsted Mountfitchet if it meets all the following criteria:
- (a) It maintains or enhances their role as retail and service centres;
 - (b) it does not harm their historic and architectural character;
 - (c) It contributes to the diversity of retail and other commercial activity;
 - (d) It does not result in significant loss of houses or flats in the centres;
 - (e) It does not prejudice the effective use of upper floors as living or business accommodation.
- 11.6 In terms of Policy RS2; the proposal would displace existing retail use which would be replaced by the combination of restaurant and hot-food take away (Class A3/A5) and this will deprive this part of the town and local centre from their role as retail centre; although it will retain its role as service centre through the introduction of restaurant and hot food take away.
- 11.7 The proposed internal and external alterations of this non listed building to meet the needs of the proposed change of use would not adversely harm the historic and architectural character of the building.
- 11.8 Given the nature of the combination of restaurant and hot food take away elements at this site, it would contribute to the diversity of other commercial activity as advocated in the policy criteria.
- 11.9 The retention of the existing flat at first floor demonstrated how the proposal would not lead to loss of residential flats in this centre.
- 11.10 And the proposed combination of the proposed change of use and the retention of the existing living accommodation at first floor shows that the proposal would not prejudice the effective use of upper floors as living accommodation.

- 11.11 In conclusion; given the existing mixed use activities along this part of Cambridge Road, the principle of the proposed change of use and in consideration with Policies SM1 and RS2 can be considered acceptable subject to the evaluation of its impact on the residential amenity of the area and traffic.

B Whether the proposal would harm the character of the building or the amenity of the adjoining occupiers (NPPF, Local Policies GEN2 and GEN4)

- 11.12 Policy GEN2 objective includes development will be permitted if the scale, form, appearance, layout and materials are compatible with the surrounding buildings; and if the proposal would not harm the living condition of the adjoining occupiers.

Policy GEN4 states that development and uses, whether they involve the installation of plant or machinery or not, will not be permitted where:

- (a) Noise or vibration is generated or
- (b) Smell, dust, light, fumes, electro magnetic radiation, exposure to other pollutants; Would cause material disturbance or nuisance to occupiers of surrounding properties.

- 11.13 The application site is bounded by residential properties and other commercial premises. Part of the proposal would include the installation of ventilation and fume extraction for cooking of food, the use of the building as restaurant and hot food take away.

- 11.14 It has been noted at the rear of the site it comprises of other types of mixed use activities namely residential, doctor's surgery and retail outlets. Some of the objections raised from neighbouring properties include cooking smell, generation of noise; litter, traffic and parking problems associated with restaurants and hot food take away outlets.

- 11.15 The proposed side elevation plan shows where a new proposed extract duct rising through the flat roof with the fire exit and goods in door underneath it. Other proposed alteration to the external part of the building include the replacement of the existing sliding entrance door with a new, inward opening glazed entrance door in the same position; and the insertion of a new timber door on the side elevation, opening into the service yard.

The existing shopfront, with the exception of the entrance door, will be retained and replaced and repainted RAL 7043 Traffic Grey and ramped access will be retained.

- 11.16 The proposed extract duct location is a concern considering the use of the first floor rear part as residential accommodation and this could disturb the occupiers in terms of cooking smell and noise from the extractor. Since part of the remaining part of the first floor will change into restaurant such use in close proximity to living accommodation would not be complimentary due to the harm to the living conditions of those occupying the residential flat due to generation of noise from customers eating and walking in and out from the restaurant in addition with cooking smell. Hence, on balance the proposal at such level would be in conflict with Policies GEN2 and GEN4. Such nuisance can be minimised through the control of the proposed opening hours and such details can be condition.

- 11.17 In order to ensure that the proposed ventilation ducting scheme location would not harm the amenity of the adjoining occupiers; the proposed vent extraction scheme has been considered by the Council's Environmental Health Officer.

- 11.18 In consultation with UDC Environmental Health Officer; she requested further information covering issues such as an acoustic report in order to assess the likely noise impact from proposed ventilation ducting; in addition with the details of the proposed opening hours has been fully considered. For example; the proposal would involve opening the restaurant to the public until 23:00hrs, which is one hour later than the previous commercial use at the site. Restricting the closing time to 22:00hrs would allow time for clearing up and for customers to disperse prior to 23:00hrs, after which nearby residents would have a reasonable expectation of a reduction in noise level.
- 11.19 In order to protect and safeguard the amenity of the neighbouring residential properties and other adjoining occupiers; details of the proposed equipment required for the extraction of cooking fumes have been requested to be conditioned; including all proposed plant and machinery that would be used to support the proposed development. This is welcome and in accordance with Policies GEN2 and GEN4.

C Highways and Traffic impact (Local Policies GEN1 and GEN8)

- 11.20 The application site is close to a set of traffic light and pedestrian crossing. It is also located within restrictive parking zone area along this part of Cambridge Road.
- 11.21 Policy GEN1 states that development will be permitted if it meets all the following criteria:
- (a) Access to the main road network must be capable of carrying the traffic generated by the development safely.
 - (b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network.
 - (c) The design of the site must not compromise road safety and must take account of the needs of cyclist, pedestrians, public transport users, horse riders and people whose mobility is impaired.
 - (d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access.
 - (e) The development encourages movement by means other than driving a car.
- 11.22 Policy GEN8 asserts that development will not be permitted unless the number, design and layout of vehicle parking places proposed is appropriate for the location, as set out in Supplementary Planning Guidance "Vehicle Parking Standards", a summary extract of which is reproduced in Appendix 1 to this Plan.
- 11.23 The proposed application site did not provide any off-street car parking spaces to accommodate the customers that would be visiting or making use of the proposed mixed use development comprising of restaurant/takeaway (Class A3/A5). Such type of services is required to be supported with adequate customer designated parking area in order to protect and safeguard traffic in the area and other road users. Given that the site is also located very close to set of traffic lights and pedestrian crossing the use of the site as proposed might have an impact on traffic and other road users as customers might be attracted to park along the side road which could also disturb traffic flow or pedestrians.
- 11.24 The applicant argued that the customers visiting the site would make use of nearby public parking which is not part of this application site. The Planning Officer's site visit revealed that the type of parking available along this part of Cambridge Road

cannot be absolutely relied upon to service the use of the proposed application site as a restaurant and takeaway services. The reason being that customers are likely to be parking within restrictive parking zone areas and close to nearby bus stop and such situation would affect traffic and other road users. The location is sustainable however the use of such type of services will attract customers from a wider afield as a result they would often arrive by private cars or motor cycle or by cycling. Such concerns have been raised through the letters of objection received.

11.25 Due to such concern and the high level of objection received the applicant decided to commission Highways and Traffic consultant to conduct a survey and studies of the impact of this proposal on traffic movement and other road users within such vicinity of the application site. Following the completion of the Traffic and Transportation Survey Studies; further re-consultation has been carried out to neighbouring properties, internal, external consultees and to Essex County Council Highways Authority. In conclusion; the traffic and transportation survey report demonstrated that the proposed change of use would not adversely affect traffic and other road users and such findings were based upon the following survey evidence.

- Due to the site being located within the centre of the defined Cambridge Road local centre, a wide range of on-street and off-street parking opportunities are located within a short walk of the application site.
- Parking surveys and on site observations have indicated that there is sufficient capacity on Cambridge Road and the Crafton Green car park to accommodate the demand for parking generated by customers and delivery drivers.
- The site benefits from A1 retail consent and this land-use would result in an increased demand for car parking when compared to proposed hot food takeaway.

Based on the above findings it is considered that development is in accordance with NPPF, and Policy GEN1 of the adopted Local Plan (2005), as the residual cumulative impacts of the proposed change of use cannot be considered severe and there remains no material reason why the proposed development should not be granted planning permission on highways or transportation ground.

11.26 Essex County Council Highways Authority has no objection to the proposal on transportation and highways terms because the proposal is considered not to be in conflict with Policy GEN1. It should be noted that such highway safety concerns were considered at appeal on the adjacent site whereby the inspector raised no concerns on these grounds.

11.27 In conclusion; following the recommended planning conditions in addition with the proposed opening hours it is not considered that the proposal would adversely affect traffic in the area.

12. CONCLUSION

The following is a summary of the main reasons for the recommendation:

- A** The proposed application is acceptable because it would bring a vacant premises within a designated local centre to a beneficial use by contributing towards mixed use activities of the area and enhance the vitality and local economic development of this part of Stansted; in addition with the creation of local jobs and services.
- B** The proposal would not adversely harm the amenity of the adjoining occupiers or traffic in the area hence it is not in conflict with the relevant policies of the adopted

Local Plan (2005) and NPPF.

RECOMMENDATION – APPROVAL WITH CONDITIONS

Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The extract system serving the premises shall be installed in line with the specification as set out in the submitted MBH Annex B Rev B Document dated 21st March 2018. The equipment installed shall be used, retained, maintained and serviced in line with manufacturer guidelines thereafter.

REASON: In order to protect and safeguard the amenity of the adjoining occupiers in accordance with Policies GEN2 and GEN4 of the adopted Local Plan (2005).

3. The cooking process shall cease to be operated if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority; and in the event that the nature of the cooking type changes, full details of the change shall be submitted to the Local Planning Authority together with details of alterations to the odour control system if required.

REASON: In order to protect and safeguard the amenity of the adjoining occupiers in accordance with Policies GEN2 and GEN4 of the adopted Local Plan (2005).

4. The combined rating level of all plant, machinery and equipment (including fans, ducting and external openings) to be used by reason of the granting of this permission, when assessed in accordance with BS:4142: 2014 shall not exceed the background noise level of 43dBA L90 15min between 07:00 - 23:00 and 39dBA L90 15min 23.00 - 07:00.

REASON: In order to protect and safeguard the amenity of the adjoining occupiers in accordance with Policies GEN2 and GEN4 of the adopted Local Plan (2005).

5. In the event that the nature of the cooking type changes, full details of the change shall be submitted to and approved in writing by the Local Planning Authority together with details of alterations to the odour control system. Thereafter this shall be implemented in accordance with the approved details

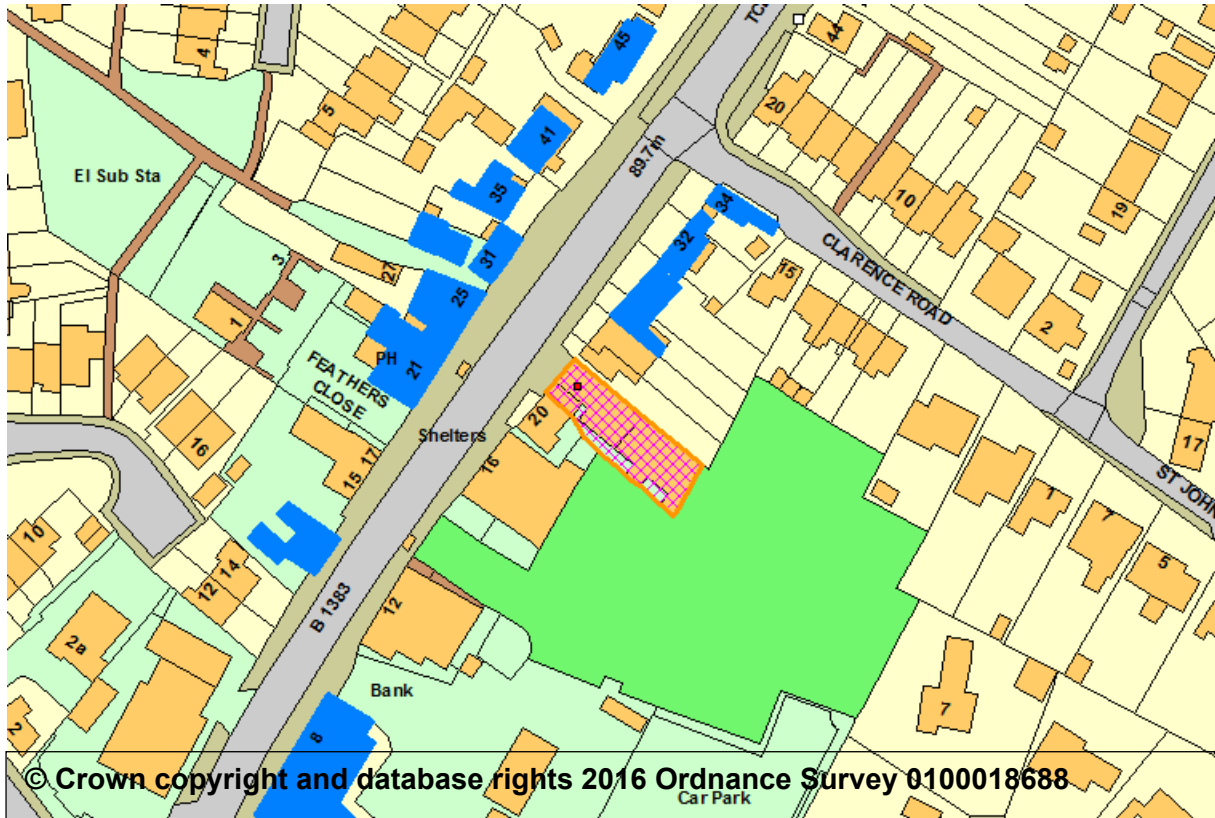
REASON: In order to protect and safeguard the amenity of the adjoining occupiers in accordance with Policies GEN2 and GEN4 of the adopted Local Plan (2005).

6. The restaurant and takeaway services hereby permitted shall not open outside the hours of 11.00am to 23.00pm Monday to Saturday and between 11.00am to 23.00pm on Sunday.

REASON: In order to protect and safeguard the amenity of the adjoining occupiers in accordance with Policies GEN2 and GEN4 of the adopted Local Plan (2005).

Application: UTT/17/3078/FUL

Address: 22 Cambridge Road, Stansted



Organisation: Uttlesford District Council

Department: Planning

Date: 29 March 2018