

## **UTT/14/1108/FUL (SAFFRON WALDEN)**

*Deferred by Planning Committee on 20<sup>th</sup> August 2014 due to lack of Highway Authority comment/advice and for a marketing report.*

**PROPOSAL:** Change of use from Class A1 (retail) to Class A5 (hot food take-away), installation of 1 no. compressor unit, 1 no. extract grill and 1 no. fresh air intake grill.

**LOCATION:** 1 – 2 Market Walk Saffron Walden, Essex, CB10 1JZ

**APPLICANT:** DPGS Ltd

**AGENT:** Pegasus Planning Group Ltd

**EXPIRY DATE:** 12 June 2014

**CASE OFFICER:** Emmanuel Allanah

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### **1. NOTATION**

1.1 Within Development Limits, Conservation Area and Saffron Walden Town Centre.

### **2. DESCRIPTION OF SITE**

2.1 The application site relate to the ground floor unit of a two storey building which is located between Market Row and Hill Street with the western boundary forming an alleyway onto Market Walk. As a result of the frontages, there is a shop front which fronts both on the Hill Street and Market Walk.

### **3. PROPOSAL**

3.1 Change of use from retail to hot food take-away, installation of one extract grille in the elevation fronting Hill Street and one fresh air intake fronting Hill Street and alterations to existing shop front.

### **4. APPLICANT'S CASE**

4.1 Applicant submitted Planning, Heritage and Design and Access Statement in addition with Land use survey of Saffron Walden Town Centre dated 14<sup>th</sup> July 2014 to support the proposed application.

4.1 The land use survey is to enable the applicant to demonstrate that the proposed change of use would not adversely reduce the number of retail outlets within this part of Saffron Walden Centre.

### **5. RELEVANT SITE HISTORY**

5.1 UTT/13/0410/FUL-Change of use from Class A1 (retail) to Class A3 (hot food take-away). Withdrawn.

## **6. POLICIES**

### **6.1 National Policies**

- National Planning Policy Framework

### **6.2 Uttlesford District Local Plan 2005**

- GEN1 – Access
- GEN2-Design
- GEN4-Good Neighbours
- ENVI-Design of development within Conservation Area
- ENV11-Noise generators
- RES2-Town and Local Centres
- SW1-Town Centre

### **6.3 Uttlesford District Local Plan – Pre-Submission Consultation, April 2014**

- RET1- Town and Local Centres and Shopping Frontages

## **7. TOWN COUNCIL COMMENTS**

7.1 The Committee objected to Planning Applications UTT/14/1108/FUL - 1-2 Market Walk for the following reasons, as stipulated in the UDC Adopted Local Plan 2005: The application contravened Policy Gen 1 (Access) as the traffic congestion generated by this development will severely impact the transport network on George Street and Hill Street. It is a takeaway establishment and by its nature will encourage people to park on that road while they collect their meal. This will be very dangerous. The application contravened Policy Gen 2 (Design) in that it is incompatible with the layout and appearance of the surrounding buildings in that area and it will severely reduce the visual impact there. The application contravened Policy Gen 2 (Design) in that it will exacerbate the production of waste in an already much criticised area, already very difficult to keep clean and healthy. There is real concern that it will contravene Policy Gen 4 (Good neighbourliness) in that the business will increase the noise levels, smells, and exposure to other pollutants and thus create an environmental hazard.

7.2 Further comments following consultation on amended and additional information will be verbally reported.

## **8. CONSULTATIONS**

### **Conservation Officer**

8.1 Object to the initial proposed plan for the following reasons:

8.2 Number 1-2 Market Walk is a retail unit located within modern development in the heart of Saffron Walden Conservation Area. The buildings in question are of traditional design in terms of their architectural concept.

- 8.3 The proposal subject of this application is for change of use from retail to hot food takeaway facility which would require number of alterations to the fabric of the unit. The obvious planning problems relating to the loss of retail outlet and the new use now proposed is a planning issue, I am concern however with the suggested external alterations to the building and resulting impact on the character of the conservation area.
- 8.4 The above retail premises present to the public view a selection of shop windows which add interest to the street scene and entice the passer-by to stop and browse. The proposed alterations would aim at blocking some of the windows internally, removal of one shop front completely and insertion of louvered timber doors. In addition the existing facias would also be removed and air extraction grills introduced. I consider that blocked up shop fronts and substantial timber doors would give the unit blind and vacant appearance destroying the established rhythm of void to solid and the concept of thriving shopping area. The introduction of extraction grills would represent a messy elements unrelated to the architectural elevation treatment. And finally I predict that the loss of shop facias would call for introduction of signage which frequently in case of takeaway premises can be crass and visually jarring with the historic setting.

**Conservation Officer's comments on revised proposed scheme:**

- 8.5 The applicant revised the the proposed elevation and floor plan of the ground floor unit by opening the bay window along market walk. The revised scheme has been considered by the Conservation Officer who commented that final decision should be based on planning assessment.

**UDC Environmental Health Officer**

- 8.6 The development has the potential to cause loss of amenity to occupiers of residential and business premises in the vicinity due to cooking odour and noise.

**Cooking fume extraction**

- 8.7 Information has been provided with the application on the proposed extract ventilation system from the cooking area, including odor control in the form of carbon filters which if installed as specified will reduce odors to an acceptable level, however no system is capable of eliminating 100% of odors. The details include measures to reduce vibration from the system which may otherwise impact on the offices above. No details have been submitted on the expected sound power level of the extract fan.
- 8.8 The following condition is therefore recommended:
- “Notwithstanding the information submitted with the application, a scheme for the installation of equipment to control the emission of fumes and odours from the premises, to include noise rating of the equipment, shall be submitted to and approved in writing by the local planning authority. The system shall be installed, operated and maintained in accordance with the submitted scheme, and any changes shall be submitted to and approved by the local planning authority prior to installation.
- 8.9 If the approved equipment becomes inadequate because of changes in the cooking operations on the premises details of new or modified equipment shall be submitted to and approved in writing by the local planning authority”

## **Noise**

- 8.10 There is the potential for additional noise in the adjacent streets from customers and delivery drivers accessing the premises. A condition is recommended to restrict opening hours to 11.00 to 23.00, and to prevent deliveries of goods to the premises outside of these hours.

## **Air Quality**

- 8.11 The site is within the Saffron Walden air quality management area, and the lack of parking space outside the premises may lead to inappropriate parking in Hill Street which has the potential to worsen congestion, notably during the evening peak period.

## **ECC Highways**

- 8.12 The Highway Authority advised that the application site fronts both Hill Street and Market Walk and has no parking allocation. The floor space of the application site is 66 sq metres which is considerably less than the threshold of 250 sq metres whereby a Transport Statement would be required to support the application. Hill Street is a One Way Street with parking restrictions outside the application site associated with the pedestrian crossing. South west of the pedestrian crossing are Keep Clear markings both sides of the carriageway protecting the entrance to the fire station and these extend to Cross Street. North east of the application site are parking restrictions which allow parking in the evening only. Market Row also allows parking for short periods only. Infringement of the parking restrictions would result in penalty notices being issued to any drivers of unlawfully parked vehicles. It is unlikely therefore that the above proposal will lead to inappropriate parking along Hill Street as this would result in parking fines being issued. There are 2 public car parks situated close to the application site, one located off Hill Street to the rear of Waitrose and the second adjacent to The Common.

## **9. REPRESENTATIONS**

- 9.1 Eight objection letters received from neighbouring properties raising the following issues:
- Object to change of use to A5 because it is inappropriate and will increase the number of food outlets to an unviable level.
  - The parking of customers does not exist at all in Hill Street and has non topping or parking restriction as the fire station is less than 50 metres from the location.
  - It lead to obstruction of emergency vehicles
  - It would generate illegal parking
  - It would affect other pedestrians
  - It would attract infestation of feral pigeons through the increase of inevitable food waste and risk of health.
  - Increased of late activity which would disrupt residents.
  - It would generate traffic to double yellow lines
  - Proposed alterations to the shop front would ruin the beauty of the town
  - Lead to loss of another retail outlets
  - It would generate anti-social behaviour and litter
  - The proposed alterations to the unit will destroy the character of the building, replacing an attractive frontage with an ugly, generis fascia.
  - The proposal contravened Policies GEN1 (Access), GEN2 (Design) and GEN4 (Good neighbouring).

## 10. APPRAISAL

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

- A The principle of the policy context of the proposal.
- B Whether the principle of change of use from retail (Class A1) to hot food-take-away (Class A5) within this part of Saffron Walden Town Centre is acceptable.
- C The impact on residential amenities in terms of generation of cooking odour and noise.
- D Impact on the appearance and character of the Conservation Area.
- E And the traffic impact.

### **A The principle of the policy context of the proposal.**

10.1 *National Planning Policy Framework(NPPF) states in paragraph 7 focuses on the following objectives:*

- Paragraph 7 confirms there are three dimensions to achieving sustainable development namely, economic, social and environmental. The Economic role of this proposal is to bring back a vacant retail shop to a beneficial use to support local economic development.
- The proposal in the social context would provide services to diverse communities;
- The environmental role in terms of the proposed change of use; it is seen as locating such proposal in an area that would not rely too much on the use of private cars and there by encouraging low carbon economy within the town centre.

10.2 *Policy RET1 affirms that “along primary shopping frontages ...change of use of the ground floor to non A1 uses will only be permitted if the applicant is able to demonstrate that the units is not viable as A1 shop use..”*

The applicant site has been vacant for more than 10 months and the applicant has marketed it ever since and there is no interest from a new retail occupier and applicant. A land use survey for the proposed application site in July 2014 has been undertaken and submitted for consideration. It has been evidently demonstrated that the proposed site is not viable as a retail shop and the only opportunity to bring such vacant shop to beneficial use would be through the current amended proposed change of use to non retail use. In view of this evidence, the proposal therefore is in accordance with Policy RET1. The land use survey shows the proposal would not adversely reduce the percentage of retail outlets within this part of Saffron Walden Town Centre because if this proposal is allowed there would be 60.2% of other occupied retail outlets. Hence, with the support of the above land use survey evidence, the principle of the proposed change use can be considered acceptable subject to the evaluation of other planning issues that has been identified within this Report.

### **B Whether the proposed change of use would adversely reduce the commercial units (for example retail units Class A1) within Saffron Walden Town Centre.**

10.3 *Policy SW1 states that the town centre is defined on the proposals map inset. 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... and;*

*Given that Policy RS2 can be applied to town centre; it is therefore worth considering this proposal in light of Policy RS2; which states that retail, commercial and community uses or mixed –use development including a residential element will be permitted in the centres of Saffron Walden ....if it meets all the following criteria:*

- *it maintains or enhances their role as retail and service centres;*
- *it does not harm their historic and architectural character;*
- *it contributes to the diversity of retail and other commercial activity;*
- *it does not result in significant loss of houses or flats in the centres;*
- *it does not prejudice the effective use of upper floors as living or business accommodation.*

10.4 The proposed application is not relating to change of use from a shop to residential use instead it is a change of use from retail to hot food take away. In policy terms an element of the policy criteria that would be useful in assessing this proposal is whether the existing use is surplus to current and foreseen future requirement so that the current proposal can be considered acceptable. The acid test to such criteria can be determined through an evidence base of the survey of the area although which the above policy did not suggest directly. The applicant therefore needs to demonstrate with evidence why such proposal would not lead to loss of vital retail outlet within this part of the Town Centre. Hence, in policy terms the applicant failed to demonstrate with evidence how the site has been advertised and marketed with no interest to a new retailer coming forward. Such evidence would help the applicant to claim surplus of such types of retail outlets within this part of the Town Centre.

10.5 In order to demonstrate with evidence that the proposed change of use would not adversely reduce retail outlets within this part of Saffron Walden Town Centre; a land use survey of commercial units within the Town Centre was undertaken. And on 18<sup>th</sup> July 2014, a detailed land use survey of Saffron Walden Town Centre was submitted based upon the land use survey of the commercial units in the area 10th July 2014 as shown below.

Use Class	No. of Units	Percentage of total units
Class 1	140	60.6%
Class A2	15	6.5%
Class A3	18	7.8%
Class A4	5	2.2%
Class A5	6	2.6%
Other (including B1, D1 and D2)	47	20.3%
Total	231	100%

10.6 It is therefore evidently clear that having assessed and evaluated the land use survey of the existing commercial units the proposed change of use would lead to loss of one Class A1 retail unit. This equates to 60.2% of the commercial units within Town Centre remaining in Class A1 use, which would only lead to 0.4% reduction. It is therefore acceptable because the proposed change of use from retail to hot food take- away would not adversely reduce the number of commercial units or retail outlets. Hence, the proposal is not in conflict with Policies SW1 and RS2 of the adopted Local Plan (2005) and Policy RET1 of the Uttlesford Local Plan-Pre-Submission Consultation, April 2014.

**C. The impact of the proposal on residential amenities in terms of generation of noise and cooking odour.**

10.7 *Policy GEN4 affirms that development and uses; whether they involve the installation of plant or machinery or not, will not be permitted where;*

- *noise or vibration generated or*
- *smell, dust, light, fumes, electromagnetic radiation, exposure to other pollutants;*
- *would cause material disturbance or nuisance to occupiers of surrounding properties.*

10.8 The application site area is characterised by different land use activities such commercial, office, retail, Public House and residential properties. The proposed change of use is only at the ground floor level while the upper floor would remain in office use. The Environmental Health Officer raised some concerns that the initial details of proposed ventilation and extraction equipment did not adequately demonstrate that the proposal would not harm the living condition of the adjoining occupiers in terms of generation of noise and odour. As a result the applicant appointed Philip Acoustics Ltd to carry out the impact assessment of the proposed ventilation and extraction equipment in order to verify whether such ventilation scheme would be able to achieve the required noise levels particularly to the nearest sensitive receptors, including the upper floor of 1-2 Market Walk. A copy of the assessment was sent to the Council on 15<sup>th</sup> July 2014.

10.9 Following re-consultation with Environment Health Officer they have recommended a planning condition in order to protect and safeguard the amenities of the adjoining occupiers due to the likely potential of noise generation as a result a condition restricting the opening hours to 11:00 to 23:00 and to prevent deliveries of goods to the premises outside of these hours. Having considered the representations from adjoining occupiers; it is considered to restrict the opening hours as follows, should planning permission be granted;

Monday to Friday from 11:00am to 10:30pm

Saturday and Sunday from 11am to 10:00pm including Bank Holidays.

**D. The impact on the character and appearance of the Conservation Area.**

10.10 *Policy ENV1 states that “development will be permitted where it preserves or enhance the character and appearance of the essential features of a Conservation Area....” And Policy GEN2 affirms that development will not be permitted unless its design is compatible with the character and appearance of the area... minimises the environmental impact on neighbouring properties... “*

10.11 The initial proposed elevation and location of the proposed ventilation scheme to the application site or building was not considered appropriate because it would not preserve or hence the character and appearance of the Conservation Area as advised by the Conservation Officer. As a result the applicant has revised proposed elevation and floor plans to overcome the issues and objection raised by the Conservation Officer. It can therefore be concluded that the revised proposed elevation and plan in design terms do not conflict with Policy ENV1.

**E. Traffic impact**

- 10.12 Part of the application site fronts onto Hill Street which lies within a restrictive parking zone area.
- 10.13 As this proposed planning application was deferred by Planning Committee on 20 August 2014 due to lack of highway Authority advice; and it can be confirmed that the views of the Highway Authority has been sought and their advice is stated below for Planning Committee consideration in of the traffic implication of the proposed change of use.
- 10.14 The Highway Authority advised that the application site fronts both Hill Street and Market Walk and has no parking allocation. The floor space of the application site is 66sq metres which is considerably less than the threshold of 250sq metres whereby a Transport Statement would be required to support the application.
- 10.15 Hill Street is a One Way Street with parking restrictions outside the application site associated with the pedestrian crossing. South west of the pedestrian crossing are Keep Clear markings both sides of the carriageway protecting the entrance to the fire station and these extend to Cross Street. North east of the application site are parking restrictions which allow parking in the evening only. Market Row also allows parking for short periods only. Infringement of the parking restrictions would result in penalty notices being issued to any drivers of unlawfully parked vehicles. It is unlikely therefore that the above proposal will lead to inappropriate parking along Hill Street as this would result in parking fines being issued. There are 2 public car parks situated close to the application site, one located off Hill Street to the rear of Waitrose and the second adjacent to The Common.

#### **F. Other matters**

- 10.16 At the time of updating this committee report, it can be confirmed the applicant information regarding the marketing evidence of the proposed application site is not available and such information and evidence would be reported verbally or included in the update addendum.

### **11. CONCLUSION**

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

- A The principle of the proposal is acceptable as it would enable a vacant retail shop which is not currently viable to contribute to the local economy and services to the local community and to visitors by providing another type of hot food take-away within the Town Centre. And as the site is easily accessible through local bus services and easily reached by those that chose to walk it is therefore considered sustainable.
- B It is considered through revised proposed plans that the proposal would not adversely harm the living condition of the adjoining occupiers in terms of noise and odour generation by securing extraction equipment details. In addition, by restricting the opening hours of the premises in order to protect and safeguard the amenities of the adjoining occupiers. And with the revised plan in place the proposal would also not harm the character and appearance of the conservation area.
- C Given that the site is located within a restrictive parking zone area within the town centre, on balance it is unlikely that the proposal would generate adverse traffic to the area, and as town centre location it would be highly visited by those visiting the Town Centre and those within the walking distance. The proposal therefore is sustainable.



Overall, the proposal is recommended for approval subject to the recommended planning conditions.

**RECOMMENDATION – APPROVE WITH CONDITION.**

Conditions/Reasons

1. The development hereby permitted shall be begun before the expiration of 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. Notwithstanding the information submitted with the application, a scheme for the installation of equipment to control the emission of fumes and odours from the premises, to include noise rating of the equipment, shall be submitted to and approved in writing by the local planning authority. The system shall be installed, operated and maintained in accordance with the submitted scheme, and any changes shall be submitted to and approved by the local planning authority prior to installation.

If the approved equipment becomes inadequate because of changes in the cooking operations on the premises details of new or modified equipment shall be submitted to and approved in writing by the local planning authority"

The hereby permitted change of use shall be implemented in accordance with the approved plans.

REASON: In order to protect and safeguard the amenities of the adjoining occupiers in terms of generation of noise and cooking odour associated with the approved use of the premises in accordance with Policies GEN2 and ENV11 of the adopted Local Plan and Policies EN1 and EN5 of the Uttlesford Local Plan- Pre-Submission Consultation, April 2014.

3. The use hereby permitted shall not open outside the following hours: Monday to Friday: 11:00am until 10:30pm; Saturday and Sunday: 11:00am until 10:00pm including Bank holidays.

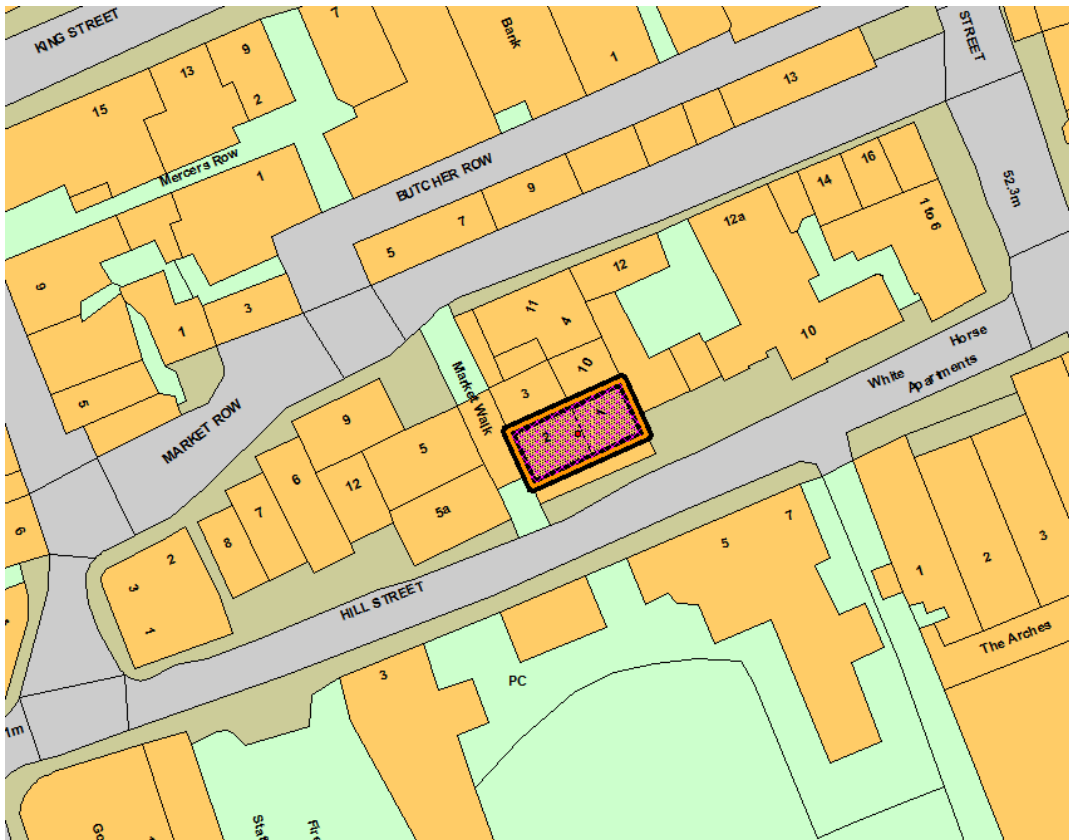
REASON: In order to protect and safeguard the amenities of the adjoining properties from generation of nuisance, cooking odour and noise in accordance with Policies GEN2, ENV11 of the adopted Local Plan (2005) and Policies EN1 and EN5 of the Uttlesford Local Plan - Pre-Submission Consultation, April 2014.

4. The development shall be carried out in accordance with the submitted details for equipment specification, construction and other noise mitigation measures contained in report 14131-002 by Philip Acoustics Ltd dated July 2014. The scheme shall be maintained thereafter in accordance with the submitted details.

REASON: In order to protect and safeguard the amenities of the adjoining occupiers in terms of noise generation in accordance with Paragraph 123 of the National Planning Policy Framework and Policy ENV11 of the adopted Local Plan (2005).

Application no.: UTT/14/1108/FUL

Address: 1 – 2 Market Walk Saffron Walden



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Organisation: Uttlesford District Council

Department: Planning

Date: 4 September 2014

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