

Planning and Rights of Way Panel 21/08/2018
Planning Application Report of the Service Lead – Infrastructure, Planning and Development

Application address: 408 Portsmouth Road			
Proposed development: Change of use to a hot food takeaway (Class A5) and installation of an extraction flue (resubmission of planning permission ref: 18/00065/FUL).			
Application number	18/01044/FUL	Application type	FUL
Case officer	John Fanning	Public speaking time	5 minutes
Last date for determination:	03.08.2018	Ward	Sholing
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors	Sholing
Referred to Panel by:	N/A	Reason:	N/A

Applicant: Mr Ozel Ozdemir	Agent: Gokdesign
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Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	N/A
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Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39 – 42 and 46 of the National Planning Policy Framework (2018).

Policies - SDP1, SDP5, SDP7, SDP9, SDP16, REI7 of the City of Southampton Local Plan Review (Amended 2015); CS13, CS18 and CS19 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Site history

Recommendation in Full

Conditionally approve

1.0 The site and its context

1.1 The site is situated at the eastern end of a three storey building comprising five ground floor commercial premises with flats above. Access is gained from Portsmouth Road via Worcester Place. To the rear is a communal parking and service area, whilst to the site frontage is a narrow access road set back and separated from the main highway by a wide grass verge with tree planting. This access road also serves a terrace of four 2 storey houses immediately to the east and set back from site. The surrounding area is broadly residential, with the upper floors of the application site being residential.

2.0 Proposal

2.1 The application seeks permission to change the use of part of what is currently a larger, ground floor premises (with a lawful use as a 'youth drop in centre') to operate as a hot-food takeaway. The application includes associated alterations to the building including a new extract flue which would be positioned centrally and extending the full height of the eastern (side) elevation, in a similar manner to the existing flue located on the western side elevation of the building which serves and existing take-away use.

3.0 Relevant Planning Policy

3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 The updated National Planning Policy Framework (NPPF) came into force on 24th July 2018 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4.0 Relevant Planning History

4.1 A recent application on the site for a similar proposal was refused in April 2018 under delegated powers (18/00065/FUL refers). The primary reason for refusal related to the visually prominent flue to the side of the building which had a purely functional appearance. The current application has amended the design and appearance of the flue to provide an enclosed system hidden within a brick cladding to match the existing in an effort to address this issue. This is a similar arrangement to that which exists on the west elevation. The principle of an additional hot food takeaway did not form a reason for refusal previously and this application, therefore, seeks to address the flue issue.

4.2 Historically, it is noted that two previous applications seeking change of use to hot food take away were refused on the site in 1993 based on concerns regarding intensification of commercial activity and impact on residential amenity. However, a similar application was subsequently allowed at appeal for the use of 402 Portsmouth Road as a takeaway in 1997 (960928/E). Notwithstanding these applications, a significant period of time has passed and the local and national planning policy context has changed significantly since these applications were considered so these applications will not be given significant weight in assessing the application. More details are provided at **Appendix 2**.

5.0 Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (22.06.18). At the time of writing the report **81 representations** have been received from surrounding residents. The following is a summary of the points raised:

5.2

- Impacts of noise/odour of neighbouring residential properties

Response: The Council's Environmental Health officer have recommended conditions to secure further specification details of the extract/ventilation equipment to ensure the amenities of nearby residents are protected.

5.3

- Other premises nearby address the need/harmful impact on sales of nearby premises

Response: National planning guidance indicates that matters of commercial competition should be left to the marketplace and planning decisions should not unduly interfere or influence this. It is up to the prospective occupier to consider the financial viability of the proposed development and the Council does not have a planning policy limiting the number of A5 uses in a given location.

5.4

- Additional refuse in street

Response: A planning condition is suggested to secure commercial waste details and litter bins for use by customers

- Late night use will result in antisocial behaviour

Response: It is noted that the property is currently a commercial premises in a small row of commercial properties including an existing takeaway. These issues are discussed further in section 6 below.

5.5

- Impact on parking/highways safety from additional activity/deliveries

Response: It is noted that the property is currently a commercial premises in a small row of commercial properties including an existing takeaway. These issues are discussed further in section 6.

5.6

- Unclear what hours of use are proposed

Response: Agreed. There is a discrepancy in the applicant's submission. This issue is addressed in section 6 below and by condition.

Consultation Responses

5.6 **Environmental Health** – No objection subject to suitable conditions to control

extract and ventilation equipment and associated noise. No objection to proposed hours.

6.0 Planning Consideration Key Issues

6.1 The key issues for consideration in the determination of this planning application are:

- i. Principle of Development
- ii. Impact on Amenity
- iii. Design

6.2 Principle of Development

6.2.1 The site is not allocated for a specific use in the Local Plan. The surrounding area is broadly residential in nature but the immediate context of the site is a small commercial frontage with a mix of uses (including one other takeaway). In the context of the commercial frontage, it is not considered that an additional takeaway would have a harmful impact on the wider character of the area and would bring the frontage back into more active use. It is not felt that the additional activity associated with bringing this premises back into use would be intrinsically harmful to the amenities of neighbouring occupiers. The principle of development was supported when the Council rejected application 18/00065/FUL for the same development on the same site.

6.3 Impact on Amenity

6.3.1 The applicant has not identified any parking capacity for the use. While it's difficult to quantify the exact trip generation associated with the existing use, it is noted that the property forms part of a commercial frontage with parking available along the access road to the site frontage specifically designed to serve the commercial units. Whilst a take-away will inevitably result in additional trip generation, parking and activity associated with such premises is very short stay. It is not envisaged that a takeaway would result in significantly higher overall trip generation than other potential commercial uses to which the frontage could be put.

6.3.2 There would be a potential for some increase in late night traffic given the later hours of use. There is some uncertainty in the submitted documents as the application form outlines hours of 12.30-23.30 Mon-Sat and 12.30-23.00 Sun, while the submitted design and access statement outlined 11.30-22.30 Mon-Sat and 11.30-22.00 Sun. The existing takeaway nearby has a terminal hour of 23.00. Given the relationship with neighbouring properties it is considered appropriate to limit the hours of operation to secure the residential environment for neighbouring occupiers but it is considered this can be achieved by a condition restricting the opening hours of the use to 23.00. **Following discussion with the applicant they have advised that they wish to seek consent for hours of operation of 12.30-23.00 (Mon-Sat) and 12.30-22.00 (Sun).**

6.4 Design

6.4.1 The Council's Environmental Health team have requested conditions to secure adequate soundproofing between floors of the building and details of the extract/ventilation equipment to ensure the impacts on residential occupiers are

mitigated.

- 6.4.2 The extract system itself runs up the side of the building and is positioned to the front in a prominent location when viewed from the adjoining house frontages. Given the prominent positioning of the building the flue element will be highly prominent both in the immediate and wider street scene. Whilst a functional flue, exposed on such a prominent flank wall has previously been found to be unacceptable, the current proposal, using a brick screen, similar to the extract equipment on the other side of the building, is considered to be a much more sympathetic and visually acceptable solution. Subject to a suitable condition to secure match materials it is considered this does not have a harmful impact on the overall appearance of the property or the wider area. The previous reason for refusal has now been addressed and the design can be supported.

7.0 Summary

- 7.1 The application proposes the conversion of a property to use as a takeaway. While there are a number of issues associated with the use it is considered that the key issues can be controlled and mitigated through the use of appropriate conditions.

8.0 Conclusion

- 8.1 For the reasons outlined above, the application is recommended for conditional approval.

Local Government (Access to Information) Act 1985 **Documents used in the preparation of this report Background Papers**

1(a)(b)(c)(d), 2(b)(d), 4(vv), 6(a)(b)

JF for 21/8/18 PROW Panel

PLANNING CONDITIONS

01. Full Permission Timing Condition (Performance)

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. Noise - plant and machinery (Pre-Commencement)

The use hereby approved shall not commence until until a written scheme for the control of noise, fumes and odours from extractor fans, flues, external plant and other equipment have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and findings before the development first comes into occupation.

Reason: To protect the amenities of the occupiers of existing nearby properties.

03. Noise & Vibration (internal noise source) (Pre-Commencement)

The use hereby approved shall not commence until sound insulation measures against internally generated noise and vibration have been provided in accordance with a scheme

to be first submitted to and approved in writing by the Local Planning Authority. The measures shall be thereafter retained as approved.

Reason: To protect the amenities of the occupiers of existing nearby properties.

04. Materials to match (Performance Condition)

The materials and finishes to be used to screen the external flue shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of the brickwork of the existing building. The brickwork shall be erected prior to the first use of the flue and thereafter retained as agreed.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

05. Refuse & Recycling (Performance)

Before the development hereby approved first comes into occupation, the storage for refuse and recycling shall be provided in accordance with the plans hereby approved and thereafter retained as approved.

Reason: In the interest of visual and residential amenity.

06. Litter Bins

A litter bin for use by customers shall be provided within the takeaway hereby approved.

Reason:

In order to reduce the likelihood of a localised litter problem caused by this development.

07. Hours of Use (Performance)

The use hereby approved shall not operate outside the following hours:

Monday to Saturday - 12.30-23.00;

Sunday and recognised Public Holidays- 12.30-22.00.

Reason: To protect the amenities of the occupiers of existing nearby residential properties.

08. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

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

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP16	Noise
REI7	Food and Drink Uses (Classes A3, A4 and A5)

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)
Planning Obligations (Adopted - September 2013)
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2018)
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Relevant Planning History

18/00065/FUL, Change of use to a hot food takeaway (class A5) and installation of extraction flue
Refused, 10.04.2018

REASON FOR REFUSAL - Out of character

The appearance, style and prominence of the flue on the side elevation would be out of character and would be harmful to the appearance of the building within the street scene. As such the proposal will have an unacceptable impact on visual amenity contrary to saved policies SDP7(iii)(iv) and SDP9(i)(iv) of the City of Southampton Local Plan Review (2015) and policy CS13 of the Development Plan Document Core Strategy Local Development Framework (2015).

01/00551/FUL, Installation of roller shutters to the front elevation.
Conditionally Approved, 29.08.2001

01/00308/FUL, Change of use to youth drop in centre.
Conditionally Approved, 23.05.2001

930512/E, CHANGE OF USE TO HOT FOOD TAKEAWAY (CLASS A3)
Refused, 11.08.1993

921405/E, CHANGE OF USE TO HOT FOOD TAKEAWAY (CLASS A3)
Refused, 27.01.1993