

PLANNING COMMITTEE

19th August 2020

Planning Application 19/01452/FUL

Change of use from Class A1 retail use to Class A3 Food and Drink Restaurant and Class A5 Hot food takeaway.

57 Poplar Road, Redditch, Worcestershire, B97 6NY.

Applicant: Mr Michael Parchment
Ward: Batchley And Brockhill Ward

(see additional papers for site plan)

The case officer of this application is Mr David Edmonds, Planning Officer (DM), who can be contacted on Tel: 01527 881345

Email: david.edmonds@bromsgroveandredditch.gov.uk for more information.

Site Description

The application site is located in a designated local centre for the Batchley planned residential area. It is situated within a parade of 10 commercial units, each with two floor flats above. The application site is at the south eastern end of the parade. It comprises a ground floor shop unit and rear tarmacked shared service yard

The parade of shops and commercial units are set back from the Poplar Road frontage and fronted by a service road cul de sac with parking and an open grassed area with groups of trees. There is a quadrangle of bungalows – Pitcheroak Cottages, to the south east of the site. There is informal parking to the rear

Proposal Development

It is proposed to change the use of the unit, which is currently empty, to a restaurant and take away which currently falls within use classes A3 and A5, respectively.

It should be noted that there are forthcoming changes to the Use Classes Order within the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020; as a result the 'A' Classes will cease to exist from 31st August 2020. As of 1st September a new uses class will be created; Class E covering Commercial, Business and Service uses. As a consequence, and if this application is approved, the development would amount to a mixed use of Class E (i.e. restaurant) and Sui Generis use (i.e. takeaway)

Also, currently, under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 4, 'Temporary Buildings and Uses' it is possible to have a change of use from Class A1 (shop) to a flexible use, including Class A3

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(restaurant), for up to 2 years without the need for Planning permission. This would not specifically address the takeaway element of the scheme, but is a matter members should be mindful of with respect to the restaurant element of the scheme

In terms of the application proposal internal layout, this material change of use would involve creating a large central seated area for eating in and a smaller area at the front of the unit for take away waiting. The rear part of the floor area would comprise a kitchen, servery, store and WC. The application does not involve any external alterations.

The proposed opening hours would be:

- Monday & Tuesday - 15.00hrs to 23.00hrs
- Wednesday – CLOSED
- Thursday to Saturday – 15.00hrs to 23.00hrs
- Sunday – 13.00hrs to 19.00hrs
- Bank Holiday– 13.00hrs to 21.00hrs

The proposed canopy extraction equipment is set out in the Canopy Direct Ltd report and can be summarised thus:

- Internal stainless steel canopy incorporating purpose built filter housing and grease filters
- Internal Galvanised steel duct work
- Three stage media mixed filter system - internal
- Extract fan using existing outlet on wall adjacent to rear yard incorporating a 'low noise fan fixed on anti-vibration mounts within a box

Relevant Policies :

Borough of Redditch Local Plan No. 4 (BoRLP

- Policy 20: Transport Requirements for New Development
- Policy 30: Town Centre and Retail Hierarchy
- Policy 39: Built Environment
- Policy 40: High Quality Design and Safer Communities

Others

- Borough of Redditch High Quality Design SPD
- National Planning Policy Framework

Relevant Planning History

57 Poplar Road

2003/129/FUL	Planning permission for change of use from Shop Unit To Community Cafe/Teaching Facility	Granted 30.05.2003
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This was subject to conditions including one limiting the use of the unit to a community café and teaching facility

Other hot food related commercial units in the parade

- 89 Poplar Road. Indian take away. Planning permission, ref 1991/076/FUL – refused in 1991, on amenity grounds – noise, litter odour and late night opening
- 65 Poplar Road. 'Pizza Bar takeaway' - Planning permission granted 1991 - Ref. 91/414. Various conditions including provision of noise insulation, extract ventilation system, external storage of refuse and hours of opening restriction – Monday to Sundays - 4 pm to midnight .

Consultations

Highways – Bromsgrove - No objections.

The existing unit located within a parade of shops and in a sustainable location. The site benefits from an existing shared vehicular access to a car park which is shared by the parade of shops. Poplar Rd benefits from footpaths and street lighting on both sides of the road and no parking restrictions are in force in the vicinity. The site is located within acceptable walking distance of other amenities, bus route and bus stops.

Worcestershire Regulations Services (WRS) – Noise & Odour. No objections with the following reasoning:

The proposed takeaway which is located beneath residential receptors, has the potential for adverse odour and noise impact upon the amenity of existing residents. Given the nature of cuisine there is the potential for odour generation, via the existing extraction. However, odour and noise concerns should not preclude this change of use from taking place but suitable regard should be given to the potential amenity issues should effective mitigation not be implemented.

It is advised that the extraction fan and odour control abatement equipment need to be installed as per the specification provided by Canopy Direct dated 03.02.2020, in order to protect the amenity of nearby residents. The odour control/extraction equipment proposed is adequate to provide a high level of odour control which is suitable in this scenario, given the relatively small size of the premises.

Where a development containing the noise source(s) is attached to noise sensitive premises, for example in the case of a parade of shops with flats above (in this case a take away), the applicant shall submit a scheme of noise insulation to demonstrate that the following criteria would be met. In all cases sound insulation between the two uses shall be at least 60dB DnT,W.

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Community Safety Project Officer Community Safety - No objections since any effective controls are most appropriately implemented through the Licensing regime.

West Mercia Police. They suggest that restrictions can be a matter for WRS, Police and the Licensing committee as or when this arises.

Licensing Senior Practitioner

Records show there are two licences issued on Poplar Road:

1. Easten Star, 71 Poplar Road – licensed for late night refreshment
Opening times - Friday to Saturday - 17:00 to 00.30; Monday to Thursday - 17:00 to 00:00; Sunday - 18:00 to 00.00
2. Booze Village, 73 Poplar Road – licensed for the sale of alcohol
Opening times – 07:00 to 22:00 Everyday.

Under the Licensing Act 2003 licences are issued to premises to permit and regulate licensable activities, only, these being “late night refreshment” (the sale of hot food or drink between the hours of 11:00pm and 5:30am) and “the sale of alcohol”. Thus since the application proposal does not involve the opening and therefore the sale of drink after 11 pm it would not need a license

Unlike planning there are no general restrictions on licensing hours for certain areas or businesses, therefore applicants for premises licences can apply for whatever licensing hours they wish. In the absence of any objections being received to a particular application, the licence is granted as applied for. If any objections are received the matter is referred to a Licensing Sub-Committee where members can consider whether the hours are appropriate in light of the objection received and any evidence presented and amend hours if necessary. The premises is required to adhere to the stricter set of controls or restrictions which are in place, whether that be licensing or planning.

Cllr Hill

No Comments Received To Date

Cllr Monaco

No Comments Received To Date

Cllr Nazir

No Comments Received To Date

Public Consultation Response

- 7 adjacent residential and commercial properties sent a notification letter including the flat above the ground floor unit
- No Objections

Assessment of Proposal

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Issue 1: Principle of the use including viability and vitality of the parade of shops and commercial units.

The application site is set within a Tier 3 local shopping parade and is not a Tier 2 District Centre. Policy 30 in the Borough of Redditch Local Plan no 4 BoRLP states that local shopping areas should provide day to day services for local communities.

There are currently two out of ten units in the parade – no. 65 (Batchley Spice (South Asian) and no. 71 'Eastern Star' (Chinese) selling hot food from late afternoon to late evening. Also there is no 61, a Sandwich shop open in day time. Unlike District Centres there is no requirement, by reason of policy 35, to ensure that overall the proportion of A5 uses do not exceed 25% of the units. The other uses in the parade are a veterinary use for 3 units, pet supplies, hairdressers, and alcoholic beverage shop. Whilst there are only two A1 retail units, there is a balance between units operating in the day and evening times. It is also worth noting that the application unit has been shut for some time.

In this context, the addition of the proposed use would contribute positively to the vitality and viability of this parade of shops and commercial units and would provide an additional service to the local community such that, on balance. it would accord with Policy 30 of BoRLP No. 4, Tier 3 policy.

Overall, the proposed development would contribute positively to the local character of the area and since it would provide an additional component to the evening economy and addressing a long term vacancy, it would enhance the efficiency of the use of the parade, which is part of the sustainable hierarchy of centres. It would thereby comply with BoRLP No.4, policy 39.

Issue 2: Effect on the living conditions of occupants of adjacent residential properties

Although there is the potential for loss of amenity the application documents provides detailed reassurance in a technical report that the issue of mechanical noise and odour has been considered appropriately and weight can be given to the absence of objection by WRS. The planning history of the parade has demonstrated that such uses can contribute to the evening economy without unacceptable impact on the living conditions of local residents. This is helped by the flats above having their own separate access and first floor rear outdoor amenity space. However it is necessary and appropriated to ensure the use cannot commence until the internal odour and noise mitigation measures have been installed and retained thereafter

In terms of the effects of external noise and disturbance this can be mitigated by control of opening hours. The proposed hours of opening are not excessive in terms of a mixed day time and evening uses and are broadly in accordance with the opening hours of other evening uses. It is appropriate to impose conditions limiting the revised opening hours of the unit to those proposed by the applicant. These provide a closure equivalent to pubs

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and restaurants and provide some respite for local residents with no opening Wednesdays and with more limited hours on Sundays and bank holiday

There is scope to use the enclosed rear yard for commercial refuse and existing public bin adjacent to the Poplar Road Footway would ensure that the extra litter can be appropriately managed. Moreover there is scope to mitigate the effects of litter by planning condition.

Issue 3: Community Safety.

The parade enjoys good natural surveillance and can be seen from surrounding residential properties. Moreover the adjacent highway benefits from its linking footways, and reasonable street and shop lighting. Furthermore considerable weight can be given to the absence of objection by both the Mercia Police and Community Safety. Therefore, the proposal would accord with BoRLP No.4, Policy 40.2 vi.

Issue 4. Highways.

As the Highway authority note this is a sustainable location for such a use which is within acceptable walking distances for the community and there are no highway safety implications. It would thereby comply with BoRLP No.4, Policy 20

RECOMMENDATION:

That having regard to the development plan and to all other material considerations, planning permission be GRANTED subject to the following conditions:

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the grant of planning permission

Reason: In accordance with the requirements of Section 91(1) of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby approved shall be carried out in accordance with the following plans and drawings:

- 512.04 Location and Site Plan
- 512.02 Proposed Plans and Elevations

Reason. To define the scope of the planning permission hereby granted in the interests of proper planning

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3. Before the premises are brought into use the extract ventilation system as specified within the Canopy Direct Ltd report dated 3rd February 2020 shall be installed and be fully operational including the odour and noise abatement parts of the equipment. This equipment shall then be retaining and suitably maintained for the life of the development.

Reason: In the interests of the control of mechanical noise and odour to prevent unacceptable loss of living conditions of the occupiers of adjacent residential properties

4. Before the premises are brought into use full details or the provision of external refuse storage facilities, shall be submitted to and approved, in writing, by the Local Planning Authority. The details thus approve shall be fully implemented prior to first use or occupation and retained as such for the life of the development

Reason: In the interests of providing adequate refuse storage capacity in a visually acceptable manner and to ensure refuse storage is reasonable accessible for collection.

5. The hours of opening for the development hereby approved shall be limited to the following hours
- Monday & Tuesday - 15.00hrs to 23.00hrs
 - Wednesday – CLOSED
 - Thursday to Saturday – 15.00hrs to 23.00hrs
 - Sunday – 13.00hrs to 19.00hrs
 - BANK HOLIDAY – 13.00hrs to 21.00hrs

Reason: - To define the permission and to ensure the proposed use can operate in a compatible way with the interests of the living conditions of surrounding residential properties

6. Prior to the commencement of development hereby approved, a scheme providing for the insulation of the unit against the transmission of noise from the building to the flat above shall be submitted to and approved, in writing, by the Local Planning Authority and this sound insulation between the two uses shall be at least 60dB DnT,W. The scheme so approved shall be carried out prior to the commencement of the use and the approved measures retained thereafter.

Reason – In the interests of protecting the living conditions of the occupants of the flat above

Informative

Due to the changes in the Use Classes Order (England), as from 1st September 2020 the proposed restaurant would be Class E - Commercial, Business and Service use whilst the takeaway would be Sui Generis

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Procedural matters

This application is being reported to the Planning Committee because the property is owned by Redditch Borough Council. As such the application falls outside the scheme of delegation to Officers.