

WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT
DELEGATED REPORT

APPLICATION No:	S6/2012/1444/FP
APPLICATION Site:	2 Cuffley Gate, Sopers Road

NOTATION:

The application site is located within the specified settlement of Cuffley and Employment Area 9 as designated by the Welwyn Hatfield District Plan 2005.

DESCRIPTION OF PROPOSAL:

This application seeks full planning permission for the erection for change of use of unit from Use Class B8 (storage and distribution) to Use Class A5 (hot food takeaway)

PLANNING HISTORY:

S6/1990/0673/FP - Non-compliance with condition of Planning Permission 1561/61 that limits the occupation of the building to a local user (Granted 25/09/1990)

S6/1988/0799/FP - Single storey side extension to factory (Granted 21/11/1988)

S6/1988/0566/FP - Alterations to elevation of industrial building in association with the provision of ancillary office accommodation (Granted 01/08/1988)

S6/1988/0063/FP - Elevational alterations to existing building (Granted 21/03/1988)

S6/1986/0116/FP - Conversion/alterations to existing industrial building into pools promotion processing area with assoc. offices, canteen, toilets and car parking area (Granted 11/04/1986)

S6/1981/0514/ - Temporary mobile office (Granted 22/09/1981)

S6/1980/0840/ - Change of use from showroom to office and provision of mobile temporary office (Granted 19/02/1981)

S6/1979/0486/ - Change of use of part of building from manufacturing to showroom (Granted 06/09/1979)

S6/1975/0610/ - Extensions and alterations to the existing offices including new second floor (Granted 19/12/1975)

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Planning Policy Framework 2012

Circular 03/09: Costs Awards in Appeals and Other Planning Proceedings

East of England Plan 2008

SS1: Achieving Sustainable Development
ENV3: Biodiversity & Earth Heritage
ENV7: Quality in the Built Environment
T14: Parking

Welwyn Hatfield District Plan 2005
GBSP2: Towns and Specified Settlements
SD1: Sustainable Development
R3: Energy Efficiency
EMP1: Employment Areas
EMP2: Acceptable Uses in Employment Areas
D1: Quality of Design
D2: Character and Context
M14: Parking Standards for New Developments

Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005
Welwyn Hatfield District Plan, Supplementary Planning Guidance, Parking Standards, January 2004

CONSULTATIONS:

Hertfordshire County Council Transport Programmes & Strategy Department – Do not wish to restrict the grant of permission
Welwyn Hatfield Borough Council Public Health and Protection Department – No comment

TOWN/PARISH COUNCIL COMMENTS

Northaw and Cuffley Parish Council – “The PC have concerns about whether this industrial unit is a suitable place for the sale of food.”

REPRESENTATIONS

The application was advertised by site notice. One objection was received from Cuffley Cafe on the grounds that the proposed use would “cause unhealthy competition” due to the number of existing restaurants and premises where food is also served. Welwyn Hatfield Access Group commented that the existing entrance does not have level entry and the external footway approaches are both narrow and not level. Also, the proposed elevation drawings do not confirm if the new door would provide level entry.

DISCUSSION:

The main issues are:

1. The acceptability of the proposed use within the designated Employment Area
2. Impact on the residential amenity of neighbouring properties
3. Parking provision
4. Other material considerations

1. The acceptability of the proposed use within the designated Employment Area

The site is located on Sopers Road and within Employment Area EA9 as designated by Policy EMP1 of the Welwyn Hatfield District Plan 2005.

Within such areas Local Plan policy EMP2 says that uses other than employment uses will only be permitted where it can be clearly demonstrated that the existing premises are no longer required to meet future employment requirements and business and community needs.

This application proposes the retention of the unauthorised change of use of the premises from B8 use to A5 (take-away) use. The applicant has not submitted any such evidence to demonstrate that the existing premises are no longer required to meet future employment requirements.

Policy EMP2 reflects the Council's policy of husbanding its resources of employment land to ensure that there continues to be enough employment land and floor space in the right locations and of the right quality to provide jobs for local people, maintain a diversity of employment uses and accommodate the requirements of local businesses and firms seeking to locate in the area. The Council's evidence shows that there is a clear need for good quality employment sites for Class B uses. Based on forecasting from Oxford Economics, evidence contained in the Hertfordshire London Arc Job Growth and Employment Land study (LAHELRL), March 2009, predicts that, by 2026, all of the land allocated in Welwyn Hatfield for industry, offices and warehousing will be needed for those purposes.

There are no "market signals" to the contrary and no evidence has been put forward of any over-riding need for take-away uses in this area. It is therefore considered that the application premises are required for employment uses and the proposed change of use does not comply with policy EMP2.

The NPPF, at paragraph 22, states that "Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose." This does not apply in this case as there is no evidence that the premises are no longer required for Class B uses.

It is acknowledged that the use provides work for 3 staff but this does not outweigh the harm to employment that would be caused by the loss of the premises for future Class B business uses. It is therefore concluded that the proposal would be contrary to Local Plan policies EMP1 and EMP2 in that the premises should be retained for future employment or business uses.

2. Impact on the residential amenity of neighbouring properties

The impact of the proposed development on the residential amenity of neighbouring dwellings is considered in terms of the impact on neighbouring properties access to day/sun/sky light, privacy and overbearing impact. The nearest residential properties are separated from the application site by a railway. This degree of separation is sufficient to avoid any impact on residential amenity. In this respect, the proposal accords with the aims of saved Policy D1 of the Welwyn Hatfield District Plan 2005.

3. Parking provision

The Welwyn Hatfield District Plan, Supplementary Guidance for Parking Standards 2004 identifies requirement for 1 parking space per 3sqm of floor space of public area plus 3 spaces per 4 employees. In addition to car parking, there should be 1

short term cycling space per 100sqm of gross floor area plus 1 long term space per 10 maximum staff on site at any one time.

Drawing No.15-01-100 shows an area of approximately 14sqm would be open to the public. The applicant has stated that there are 3 members of staff. Accordingly the proposed use would require approximately 6 car parking spaces.

The application form states that 3 parking spaces are available, however, the submitted drawings show only a shared access and parking area with no detail in respect of parking layout or the allocation of spaces. The application unit forms part of a complex of small industrial units and during the site visit there was an articulated lorry being unloaded within the parking area. It was also noted that there was significant pressure for on-street parking within Sopers Road and that the applicant has not demonstrated that there is any cycle parking facilities on the site.

The proposed parking provision of just 3 spaces is 50% below the parking requirement identified within the Parking Standards SPG and the applicant has failed to clearly identify the location of the proposed parking spaces. As such, the applicant has failed to demonstrate that there would be sufficient parking space allocated to the proposed use and the proposal is therefore be contrary to NPPF and policy M14 of the Welwyn Hatfield District Plan 2005 and Welwyn Hatfield District Plan which requires parking provision to be in accordance with the Council's Supplementary Guidance for Parking Standards 2004.

4. Other material considerations

Sustainable Development: The applicant has completed a sustainability checklist which highlights that the scheme generally responds positively to the topic areas that are required to be considered in accordance with policies SD1 and R3 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance, 2005.

Protected Species: The presence of protected species is a material consideration, in accordance with, Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05. In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states: *"a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions."* The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals, however the existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would a EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 and amended 2012 Regulations further.

East of England Plan 2008: On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and

- He failed to consider the likely environmental effects of revoking Regional Strategies

However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

The application has been considered against policy(ies) in the East of England Plan, which at the time of this decision forms part of the development plan for the borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

CONCLUSION:

The proposed development would be sufficiently energy efficient and subject to conditions relating to a parking layout being submitted and agreed by the Local Planning Authority, would not impact adversely on highway safety. However, the proposed A5 use would form an inappropriate use within the designated employment area. Furthermore, the applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that sufficient parking would be provided for the A5 use.

RECOMMENDATION: REFUSAL AND REASONS

1. The proposed A5 use would not constitute an appropriate use in an Employment Area and the applicant has failed to prove to the satisfaction of the Local Planning Authority that the land would no longer be required for the future employment and business of the Borough. Accordingly the proposal would result in the unacceptable loss of this employment generating site contrary to the National Planning Policy Framework and Policies EMP1 and EMP2 of the Welwyn Hatfield District Plan 2005.
2. The applicant has failed to demonstrate that there would be sufficient parking space allocated for the proposed use on the site. The proposal would therefore be contrary to the National Planning Policy Framework and policy M14 of the Welwyn Hatfield District Plan 2005 and Welwyn Hatfield District Plan, Supplementary Guidance for Parking Standards 2004.

INFORMATIVES:

None

Refused plan numbers: 15-01-100 & 15-01-105 Revision A & 15-01-107 received and dated 3 October 2012

REASON FOR REFUSAL:

The proposal has been considered against the National Planning Policy Framework, East of England Plan 2008 SS1, ENV3, ENV7, T14 and Development Plan policies GBSP2, SD1, R3, EMP1, EMP2, D1, D2, M14 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which, at the time of this decision indicate that the proposal should be refused for the reason(s) set out above. The decision has been made taking into account material planning considerations and where practicable and appropriate the requirements of paragraphs 186-187 of the

National Planning Policy Framework (see Officer’s report which can be inspected at these offices).

Signature of author..... Date.....