

**WELWYN HATFIELD BOROUGH COUNCIL
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

DELEGATED APPLICATION

Application No: 6/2020/1566/FULL
Location: 8 Harpsfield Broadway Hatfield AL10 9TF
Proposal: Change of use from A1 (newsagents) to A5 (Caribbean takeaway)
Officer: Mr Antoine Commenville

Recommendation: Granted

6/2020/1566/FULL

Context	
Site and Application description	<p>The application site lies within the built-up area of Hatfield, to the south west of the town centre adjacent to Comet Way. The application site forms part of a parade of retail/commercial units, with residential units above.</p> <p>The application seeks planning permission for the change of use of the unit from retail (Newsagent) to take away restaurant (sui generis). The unit is currently vacant and has been so for some time.</p> <p>It is noted that the description of the proposal reads: "Change of use from A1 (newsagents) to A5 (Caribbean takeaway)". However, Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on the 1st September 2020, and under the new Regulations, Use Class A1 (Shops) became classified as E (commercial, business and service uses) and Class A5 (Takeaway) became a Sui Generis use. Therefore the proposal has been determined as a change of use from E (newsagents) to Sui Generis (Caribbean takeaway).</p>
Constraints (as defined within WHDP 2005)	<p>PAR - PARISH (HATFIELD) - Distance: 0 Wards - Hatfield Villages - Distance: 0 A4HD - Article 4 HMO Direction - Distance: 0 CP - Cycle Path (Cycle Facility / Route) - Distance: 17.16 FM00 - Flood Zone Surface Water 1000mm (70631) - Distance: 0 FM00 - Flood Zone Surface Water 1000mm (7591635) - Distance: 0 HEN - No known habitats present (medium priority for habitat creation) - Distance: 0 SAGB - Sand and Gravel Belt - Distance: 0 HHAA - Heritage Assessment Area (Hatfield Business Park) - Distance: 0</p>
Relevant planning history	<p>Application Number: 6/2020/1682/ADV Decision: Pending Decision Proposal: Proposed illuminated light box with 'Caribbean Passion' graphic vinyl</p> <p>Application Number: 6/2017/2277/LAWP Decision: Granted Decision Date: 13 November 2017 Proposal: Certificate of Lawfulness for the change of use to Estate Agency</p>

	<p>Application Number: 6/2018/2092/FULL Decision: Granted Decision Date: 04 January 2019 Proposal: Change of use from shop (A1) to ice cream/dessert parlour (A1/A3) and erection of single storey rear canopy seating area</p> <p>Application Number: 6/2020/0587/FULL Decision: Granted Decision Date: 24 April 2020 Proposal: Change of use from Class (A1) to sui generis a tanning salon</p>		
Consultations			
Neighbour representations	Support: 0	Object: 0	Other: 0
Publicity	Neighbour notification letters Site Notice Display Date: 28 July 2020 Site Notice Expiry Date: 18 August 2020		
Summary of neighbour responses	No representations have been received.		
Consultees and responses	Hatfield Town Council – Members requested that conditions regarding noise and fumes be added to the permission. Public Health and Protection – No objections subject to condition. HCC Transport Programmes & Strategy – No objections.		
Relevant Policies			
<input type="checkbox"/> D1 <input type="checkbox"/> D2 <input type="checkbox"/> GBSP1 <input checked="" type="checkbox"/> GBSP2 <input checked="" type="checkbox"/> M14 <input type="checkbox"/> Supplementary Design Guidance <input checked="" type="checkbox"/> Supplementary Parking Guidance <input checked="" type="checkbox"/> Interim Policy for car parking and garage sizes Others: SD1, GBSP2, R1, R3, R10, R19, M1, M14, D1, D2, D5, D9, TCR25 of the Welwyn Hatfield District Plan 2005 and SP1, SP3, SP4, SADM2, SP5, SADM4, SP9, SADM11, SADM12, SP10 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016			
Main Issues			
Principle of development, including impact on neighbourhood centre			
<p>The site lies within the built up area of Hatfield where there is no objection in principle to development. The site is within Harpsfield Broadway which is designated as a small neighbourhood centre within the District Plan.</p> <p>Policy TCR25 of the District Plan states that in small neighbourhood centres, changes of use from A1 to A2 or A3 may be allowed subject to a number of criteria being met. The Policy also states that other non-retail uses may be allowed, subject to the specified criteria, where it can be demonstrated it would address a particular local need. As the proposal is for a non-retail use and a local need for a takeaway has not been identified, the proposal would not accord with Policy TCR25.</p> <p>Policy SP5 of the emerging Local Plan identifies the application site as being within the Parkfield Court Neighbourhood Centre (Large), wherein Policy SADM4 states that the Council will support proposals for change of use where the following criteria are met:</p> <p>(i) At least 50% of the Retail Frontage(s) (by number of units) remain A1 retail use; (ii) There will be no more than two adjoining non-A1 retail units within any part of the frontage;</p>			

(iii) There would be no harm to the vitality and viability of the centre.

The Council's most recent Annual Monitoring Report 2018/19 (Feb 2020) (AMR) identifies that 28% of the retail frontage within the Neighbourhood Centre was in A1 uses (which was the same in 2018). The proposal would therefore fail to meet criterion (i) of the Policy, and it would also fail to meet criterion (ii) as there is already, and would continue to be, more than two adjoining non-A1 units within the frontage.

The proposal would however increase footfall in the vicinity of the application site, contributing to the vitality and viability of the Centre. The existing unit is vacant, and has been for some time (in excess of three years). No information has been provided with this application in respect of the marketing of the premises, but a previous application on the site in 2018 (ref. 6/2018/2092/FULL) was accompanied by evidence of the marketing of the property, which had been unsuccessful. The proposal would therefore permit the re-use of this vacant unit, in a Centre where the most recent AMR identifies that vacant retail floorspace has risen from 4% in 2018 to 8% in 2019.

Paragraph 85 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It goes on to state that policies should define the extent of town centre and primary shopping area, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre. The NPPF is a material consideration in the determination of this application, and its requirement to take a positive approach to the management and adaptation of town centres and retail development is noted.

It is also material to the consideration of this application to note that planning permission was granted in January 2019 for the use of the unit as an ice cream/dessert parlour (use classes A1/A3) (ref. 6/2018/2092/FULL) and in April 2020 for a Tanning Salon (Sui Generis) . These permissions accepted the loss of an A1 retail use, and noted that whilst the development would be contrary to the relevant policies of both the adopted District Plan and emerging Local Plan, it would benefit the vitality of the shopping parade and would accord with the aims of paragraph 85 of the NPPF.

Therefore, taking into account all of the above considerations, whilst the proposal would not meet all the criterion of policies TCR25 of the adopted District Plan and SADM4 of the emerging Local Plan, the proposal would permit the re-use of a vacant unit and would contribute towards the vitality and viability of the centre.

Living conditions

It is noted that Public Health and Protection have commented that there is the potential for noise from the kitchen extract system to affect nearby residents.

They have further commented that resultant noise levels at the nearest receptor location will need to be established to ensure that noise nuisance is not likely to occur, and therefore recommend a condition that requires that the applicant submit details relating to noise from plant and equipment to be installed (including any kitchen extract systems). Such a condition is considered to be reasonable and necessary in this case, and also addresses the comments made by Hatfield Town Council.

A number of informative are recommended by Public Health and Protection, but as this proposal is for a change of use only with no external building works proposed, the informative are not considered to be necessary in this case.

Highways and Parking

The site is well located within walking and cycling distance of a large population. The site benefits from immediate access to footways, cycleway, as well as public transport, and is therefore

considered to be in a sustainable location.

The application does not indicate that any parking provision is provided as part of the proposed change of use. There is some on street parking in front of the unit, and whilst this is time limited (30 minutes) it would provide some provision for those who visit the premises by car. Taking into account the proposed use of the unit and its sustainable location, it is considered that the lack of on-site parking provision is unlikely in this case to result in unacceptable pressure for parking within the surrounding area, nor would it result in a severe impact on the operation of the local highway network. On this basis, there is no objection to the proposal on the grounds of parking provision.

Furthermore, this level of development is unlikely to generate any extra movements which would ultimately lead to demonstrable harm to the highway network in terms of free flow and capacity.

Other matters

This application does not seek permission for any external alterations to the unit. It is therefore considered that the proposal would not result in any harm to the character and context of the locality.

Conclusion

For the reasons set out above, it is considered that the proposal, which would bring an unused unit back into active use, is acceptable and would not adversely affect the amenity of the occupants of neighbouring properties, nor result in any harm to the local highway network. Whilst the proposal results in some conflict with the specified retail policies, it is considered that the benefits of the proposal to the vitality and viability of the centre outweigh the conflicts with the policies identified. Having regard to these considerations and the other material considerations which are relevant to the determination of this application, it is recommended that planning permission be granted.

Conditions:

1. Before the development hereby approved is brought into use the applicant must submit to, for approval by the Local Planning Authority, details relating to noise from plant and equipment to be installed at the premises with evidence in the form of an acoustic report showing that noise emissions from plant and equipment will be 10dB (LAeq) below the background noise level (LA90) at the nearest residential property (5dB below the background noise level if evidence is provided which shows that no tonality is present).

Should the plant fail to comply with the limitations set out above at any time, it must be switched off and not used again until it is able to comply. The use of the equipment must not commence or re-commence until a fully detailed noise survey and report has been submitted to and approved in writing by the Local Planning Authority and approved mitigation measures such as acoustic screening or silencers have been implemented. The plant must be serviced regularly in accordance with manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained at all times.

REASON: To protect the residential amenity and living conditions of nearby occupiers in accordance with Policy R19 of the Welwyn Hatfield District Plan 2005, Policy SADM18 of the Emerging Local Plan 2016 and the National Planning Policy Framework 2019.

DRAWING NUMBERS

2. The development/works shall not be started and completed other than in accordance with the approved plans and details:

Plan Number	Revision Number	Details	Received Date
1020/PL/01		Location Plan and Existing Site Plan	13 July 2020
1020/PL/02		Existing Ground Floor Plan And Elevations	13 July 2020
1020/PL/03		Proposed Ground Floor Plan And Elevations	13 July 2020
1020/PL/10		Existing and Proposed Front Elevations	13 July 2020

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

1. POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

Informatives:

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (water interest etc.) Neither does this permission negate or override any private covenants or legal interest (easements or wayleaves) which may affect the land.

Determined By:

Mr Mark Peacock
4 September 2020