

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

DELEGATED APPLICATION

Application No: 6/2018/1560/FULL
Location: Siting of mobile snack Bar At Car Park At 1 Bessemer Road
 Welwyn Garden City AL7 1GF
Proposal: Retention of change of use to fixed catering unit with operating
 hours of 06.00-16.00 Monday to Saturday
Officer: Ms Louise Sahlke

Recommendation: Granted

6/2018/1560/FULL

Context	
Site and Application description	<p>The application site is located at the junction of Bridge Road and Bessemer Road. It is located within the car park of two industrial/distribution buildings comprising a mix of commercial uses.</p> <p>Vehicular access is via the existing private access road from Bessemer Road. This access road currently serves a number of commercial premises.</p> <p>The proposal seeks change of use of an existing trailer and car parking space within the retail warehouse car park for the siting of a fixed catering unit. The catering unit operates between 06:00-16:00 Monday to Saturday and has been operating without planning permission since June 2017.</p>
Constraints (as defined within WHDP 2005)	<p>EMPL - EA1 (Welwyn Garden City Industrial Area) - Distance: 0</p> <p>Wards - Peartree - Distance: 0</p> <p>CP - Cycle Path (Cycle Facility / Route) - Distance: 10.48</p> <p>HEN - No known habitats present (medium priority for habitat creation) - Distance: 0</p> <p>SAGB - Sand and Gravel Belt - Distance: 0</p>
Relevant planning history	<p>Planning</p> <p>Application Number: 6/2015/1957/MAJ Decision: Granted Decision Date: 19 February 2016</p> <p>Proposal: Erection of 2no industrial/distribution buildings comprising a mix of commercial uses: Unit 3 (sui generis builders merchant for the display, sale, storage of building, timber and plumbing supplies, plant and tool hire including outside display and storage); Unit 4 (Class A1 bulky goods retail warehouse) and Units 5 to 8 (Class B1(c), B2 and B8 with trade counters and ancillary showrooms, and sui generis tile merchants) including access and servicing arrangements, car parking, landscaping and associated works.</p>

	Application Number: 6/2017/0137/COND Decision: Granted Decision Date: 09 March 2017 Proposal: Approval of details reserved by condition 7 (Surface Layout) on planning permission 6/2015/1957/MAJ		
Consultations			
Neighbour representations	Support: 1	Object: 0	Other: 0
Publicity	Site Notice Display Date: 2 August 2018 Site Notice Expiry Date: 23 August 2018		
Summary of neighbour responses	<p><u>Unit 2 – Support.</u></p> <ul style="list-style-type: none"> The Snack Bar facility provides a useful service to my staff based at our Bridge Road site. They are able to walk to the snack bar, purchase food and drink and walk back within their allocated break times, something which is not possible if they have to go to the town centre. The snack bar is on an industrial estate and does not cause any noise, nuisance or disturbance to any residential area and it serves the target market well, providing a useful service to the surrounding area. 		
Consultees and responses	<p><u>WHBC - Public Health and Protection – No objection.</u></p> <p>No complaints have been received about noise from customers.</p> <p>The operating hours for the business are not those in which complaints would also be expected along with no residential properties being nearby.</p> <p>Noise and odour from work activities</p> <p>As above no complaints have been received and there are no residential properties nearby.</p> <p>The additional hour in the morning is not seen to be a significant concern due to the location and size of the business.</p>		
Relevant Policies			
<input checked="" type="checkbox"/> NPPF <input checked="" type="checkbox"/> D1 <input checked="" type="checkbox"/> D2 <input type="checkbox"/> GBSP1 <input checked="" type="checkbox"/> GBSP2 <input checked="" type="checkbox"/> M14 <input checked="" 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 Sustainable Development R7 Protection of Ground and Surface Water R19 Noise and Vibration Pollution M1 Integrating Transport and Land Use M5 Pedestrian Facilities M6 Cycle Routes and Facilities D7 Safety by Design D8 Landscaping			

D9 Access and Design for People with Disabilities
 EMP1 Employment Areas
 EMP2 Acceptable Uses in Employment Areas

Draft Local Plan Proposed Submission 2016

SP1 –Delivering sustainable development
 SP4 – Transport and Travel
 SADM2- Highway Network and Safety
 SP8-The Local Economy
 SADM10- Employment development
 SP9- Place Making and High Quality Development
 SADM11- Amenity and Layout
 SADM12- Parking, Servicing and Refuse
 SP10- Sustainable design and construction
 SADM14- Flood Risk and Surface Water Management
 SP11-Protection and Enhancement of Critical Environmental Assets
 SADM18 – Environmental Pollution

Main Issues

Principle of development

The catering unit is located within a sustainable location near to the town centre and within walking distance of local services. Therefore is in accordance with Policy SD1 of the District Plan 2005 and Policy SP1 of the Draft Local Plan Proposed Submission 2016 in regards to sustainable development.

The application site is located within Welwyn Garden City Employment Area (EA1). This is an employment site within the designated employment areas as set out within the adopted District Plan 2005. The National Planning Policy Framework 2018 is relevant as the overarching policy on economic development. Policy EMP2 (Acceptable Uses in Employment Areas) of that plan is relevant. That policy states that proposals for any other uses (not B1, B2 and B8 use classes) in the designated employment areas should be resisted and will only be permitted where it can be clearly demonstrated that the existing land or premises are no longer required to meet future employment requirements and business and community needs.

The proposal would also be required to meet the following criteria:

- i) The proposal would not, due to the scale of employment generated, have an unacceptable impact on the demand for housing in the travel to work area;
- ii) The proposal would not have an unacceptable impact on the local and/or strategic transport infrastructure;
- iii) The proposal would not harm the amenities of any nearby residential properties;
- iv) The development would provide adequate parking, servicing and access;
- v) Any retail element of the development would clearly be ancillary to the main business use.

The 2016 Draft Local Plan Proposed Submission was submitted for examination to the Secretary of State in May 2017 with the examination currently being held and public examination hearing dates on going.

Therefore Policies SADM10 and Policy SP8 of the Draft Local Plan Proposed Submission 2016 are also relevant.

Policy SADM10 of the Draft Local Plan Proposed Submission 2016 states that proposals which result in a loss of land from Class B uses will only be permitted where three exceptions can be met. These are;

- iii) It can be demonstrated through active, extensive and realistic marketing over a period of three years that the land or premises are no longer required to meet future employment land needs, and that there is a lack of demand for the land or premises in that location;
- iv) The proposed use is compatible with neighbouring uses and, where applicable, would not prejudice the continued use of neighbouring land for employment; and
- v) In accordance with Policy SP8, they provide facilities that are supportive Class B uses.

Policy SP8 of the Draft Local Plan Proposed Submission 2016 outlines that the Council will support economic prosperity, encourage inward investment and the creation of a range of jobs by;

- i. Resisting the loss of land from Class B uses;
- ii. Retaining a stock of good quality employment land and premises;
- iii. Ensuring that provision is made to meet the needs of business sectors that are already well represented in Welwyn Hatfield and those that are looking to invest in the area;
- iv. Maintaining a balance of types of employment so that opportunities are available for people with a range of different skills and levels of skill;
- v. Ensuring that provision is made for a range of opportunities, in terms of sites and premises, to allow new and emerging sectors to be accommodated; and
- vi. Recognising the important role played by non-Class B land uses (including retail) in providing employment and contributing to the local economy.

Policy SP8 of the Draft Local Plan Proposed Submission 2016 states that 'The Council will also support the provision of other uses that are ancillary to, but supportive of, Class B uses in designated employment uses'. This reflects the wording of the National Planning Policy Framework 2018 which highlights the need for 'significant weight' to be placed on the need to support economic growth and be 'flexible enough to accommodate needs not anticipated in the plan'.

Planning application reference 6/2015/1957/MAJ for the erection of 2no industrial/distribution buildings comprising a mix of commercial uses: Unit 3 (sui generis builders merchant for the display, sale, storage of building, timber and plumbing supplies, plant and tool hire including outside display and storage); Unit 4 (Class A1 bulky goods retail warehouse) and Units 5 to 8 (Class B1(c), B2 and B8 with trade counters and ancillary showrooms, and sui generis tile merchants) including access and servicing arrangements, car parking, landscaping and associated works was granted by Development Management Committee on the 19 February 2016.

The catering unit would result in a change of use of a trailer and car parking space. This is located within a car park which was designed to support the

	<p>proposed industrial/distribution buildings comprising a mix of commercial uses.</p> <p>Although parts i- v of Policy EMP2 of the District Plan 2005 are met. The policy states that proposals for any other uses (not B1, B2 and B8 use classes) in the designated employment areas should be resisted and will only be permitted where it can be clearly demonstrated that the existing land or premises are no longer required to meet future employment requirements and business and community needs.</p> <p>Policy SADM10 of the Draft Local Plan Proposed Submission 2016 is similar in that it states that proposals which result in a loss of land from Class B uses will only be permitted where three exceptions can be met. These are;</p> <p>iii) It can be demonstrated through active, extensive and realistic marketing over a period of three years that the land or premises are no longer required to meet future employment land needs, and that there is a lack of demand for the land or premises in that location;</p> <p>iv) The proposed use is compatible with neighbouring uses and, where applicable, would not prejudice the continued use of neighbouring land for employment; and</p> <p>v) In accordance with Policy SP8, they provide facilities that are supportive Class B uses.</p> <p>Policy SP8 of the Draft Local Plan Proposed Submission 2016 criteria i-vi are also relevant.</p> <p>No marketing information or supporting documentation has been submitted as part of this planning application to support the change of use of the relevant land.</p> <p>The catering unit provides two part time jobs which support the wider economy and supports the provision of other uses that are ancillary to, but supportive of, Class B uses in designated employment uses'. This is confirmed by the letter received by the neighbouring property to which the catering unit provides an eatery for staff within the industrial area. Furthermore, the percentage of the change of use in comparison to the overall application site is extremely small.</p> <p>Therefore, in line with the guidance in the National Planning Policy Framework 2018, it is considered that there is a case for a temporary permission for the proposed change of use, providing that the proposal satisfies the criteria laid out in Policy EMP2 of the District Plan 2005 and Policies SP8 and SADM10 of the Draft Local Plan Proposed Submission 2016. This would allow the catering unit to operate retaining the two part time jobs whilst allowing the Local Planning Authority to consider whether the change of use of the car parking space impacts on the operation of the wider application site.</p> <p>Therefore, although marketing information or supporting documentation has not been provided, it is considered that there is an exemption based on the consideration that the catering unit is ancillary to, but supportive of the Class B uses in this employment area. In accordance with Policy SP8 of the Draft Local Plan Proposed Submission 2016 and National Planning Policy Framework 2018.</p>
Design (form, size, scale, siting)	The catering unit operates from an existing trailer and car parking space within the car park of two industrial/distribution buildings comprising a mix of

<p>and Character (appearance within the streetscene)</p>	<p>commercial uses. The catering unit measures 4.2 metres (deep) by 2 metres (wide). The height of the catering unit is 2.3 metres but is located on blocks which measure 0.6 metres. There is a gas storage box attached to the side elevation. The catering unit is not well screened due to the low and open boundary treatment surrounding the car park. It is positioned on a prominent location and is considered to negatively impact on visual amenity of the area. However this negative impact has to be weighed carefully against other factors. The catering unit is clearly within an industrial area, and that the Local Planning Authority is not able to prevent someone from parking in this location during the hours of operation of the car park. Furthermore, should this catering unit deteriorate in visual appearance, its removal would be controlled through the temporary use condition.</p> <p>Therefore the retrospective catering unit would be acceptable in regards to the National Planning Policy Framework 2018, Policies D1 and D2 of the District Plan 2005 and Supplementary Design Guidance 2005.</p>
<p>Impact on neighbours</p>	<p>The catering unit would not adversely impact on the residential amenity of neighbouring properties. The catering unit would be located 60 metres away (approximately) from the nearest residential development which is currently under construction. Therefore it is considered that there would be no impact on residential amenity in terms of light, privacy and outlook.</p> <p>The catering unit is likely to omit odour and although operations may result in noise disturbance during the hours of operation and from possible deliveries. The catering unit being 60 metres away (approximately) from the nearest residential dwellings which are currently under construction would not likely create noise and disturbance during its operating hours of 06:00-16:00 Monday to Saturday. Therefore it is considered that the retrospective catering unit would be in compliance with the National Planning Policy Framework 2018, Policies D1 and D2 of the District Plan 2005 and Supplementary Design Guidance 2005.</p>
<p>Environmental Impact</p>	<p>The application form states that the refuse is located within an 1100 trade bin. No details have been provided of the recycling storage or how the bins are collected. However it is considered that the amount of recyclable waste would be minimal and the collection point would be within the car park area. Therefore it is considered unreasonable to request a condition for refuse, and the retrospective catering unit would be in accordance with the National Planning Policy Framework 2018, Policies D1 and D2 of the District Plan 2005 and Supplementary Design Guidance 2005.</p>
<p>Access, car parking and highway considerations</p>	<p><i>Pedestrian access</i></p> <p>There is not a separate pedestrian access to the catering unit as pedestrian access to the wider car park has been considered under planning application reference 6/2015/1957/MAJ. Therefore it is considered unreasonable to request a separate pedestrian access route.</p> <p><i>Vehicular access</i></p> <p>The vehicular access would remain the same as per planning application reference 6/2015/1957/MAJ.</p> <p><i>Highway impact</i></p>

	<p>It is not considered that the catering unit would result in adverse additional levels of traffic in the immediate area. Most people eating at the catering unit are going to be either visiting or working within the industrial estate. Therefore the impact on the public highway is considered acceptable.</p> <p><i>Cycle and parking provision</i></p> <p>No details have been provided of the customer base or deliveries of the catering unit. However it is considered that the existing car park and cycle storage is sufficient for customers of the catering unit to utilise. Therefore it would be unreasonable to request specific allocation of cycle and car parking spaces for the catering unit.</p> <p><i>Fire safety and refuse collection</i></p> <p>No details have been provided in regards to waste collection or fire safety. It is considered that the existing access to the catering unit would be utilised.</p> <p><i>Parking provision</i></p> <p>Under planning application reference 6/2015/1957/MAJ an assessment was undertaken for the parking requirements for the proposed uses in accordance the Parking Standards 2004 and Interim Policy 2014. The trailer and car parking space formed part of the assessment undertaken.</p> <p>The change of use of one of the trailer and car parking spaces to a fixed catering unit would render it unusable. No provision has been made to accommodate the trailer and car parking space elsewhere within the car park. Nor has a car parking study been undertaken, to demonstrate that trailer and car parking spaces are not utilised. Therefore a reduction in the overall number of agreed car parking spaces is proposed without sufficient evidence. However on the Case Officer's site visits during weekly office hours, it is considered that adequate car parking remains. It is considered that a temporary permission for two years would allow the catering unit to operate. Whilst also allowing the applicant to gather information for a car parking study to be submitted with any subsequent application to demonstrate that the change of use of this individual car parking space does not have a detrimental impact on the operation of the wider application site.</p> <p>Subject to the imposition of the temporary permission condition, the change of use of the trailer and car parking space to a fixed catering unit is acceptable to the National Planning Policy Framework 2018, Policy M14 of the District Plan 2005, Parking Standards 2004 and Interim Policy 2014.</p>
Landscaping Issues	No impact on landscaping.
Food Safety Legislation	The food business operator must register with the Council's Public Health and Protection Department as full compliance is required with all relevant food safety legislation. The Case Officer has checked with the relevant department and a food safety certificate is held. Therefore it is not considered that an informative is required.
Safety by Design	No details have been provided in regards to the security of the catering unit. There would be some level of natural security due to its position within an open

	car parking. Therefore it is considered unreasonable to request further details by condition. The proposal would be in accordance with Policy D7 of the District Plan 2005.
Flood risk and drainage	<p>The catering unit is not located within a flood zone and therefore additional information is not required in regards to management of flooding.</p> <p>The application form states that foul sewage is collected within a septic tank and removed from the site. This is considered acceptable.</p>
Equalities	<p>The Council in the exercise of its functions recognises its statutory duty to have regard to the needs to eliminate all types of discrimination, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it as required under section 149 of the Equality Act 2010. Section 149 of the Equality Act requires a decision maker to have 'due regard' to achieving a number of equality goals. These goals are:</p> <ol style="list-style-type: none"> 1) To eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act; 2) To advance equality of opportunity between those with protected characteristics and those without; and 3) To foster good relations between persons with a relevant protected characteristic and those without. <p>The relevant protected characteristics are age; disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p> <p>In determining this application, the Local Planning Authority is required to have regard to the Council's statutory obligations under the Equality Act 2010 as set out above. It is not considered that the retrospective catering van would not conflict with meeting the statutory equality responsibilities.</p>
Other comments	A neighbouring property has raised that the catering unit supports staff members in terms of obtaining lunch. This is not a planning matter and therefore is not a material consideration to the assessment of this planning application.
Inaccurate plans	The plans submitted for the catering unit do not reflect those approved under planning application 6/2015/1957/NMA. However as the catering unit is located within the trailer and car parking space which has not been amended under the revised plans for the non-material amendment. The Case Officer has taken the view that these are acceptable to demonstrate the catering unit for this planning application. Therefore has not requested amended plans from the agent.
Conclusion	
Subject to relevant conditions, it is considered that the retrospective change of use to accommodate the catering unit is acceptable in regards to planning policy.	

Conditions:

1. This permission is for a limited period only expiring on 6 November 2020. Following the expiration of the period of this temporary permission the use shall cease and the unit shall revert back to its lawful use.

REASON: Permission is only granted for a temporary period to allow the use to take place for a temporary period of time without prejudicing the long-term supply of employment land in the borough, in accordance with The National Planning Policy Framework and Policies EMP2 of the Welwyn Hatfield District Plan 2005.

2. Notwithstanding the provisions of Article 3 of the Town and Country Planning Use Classes Order 1987, and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any orders revoking or re-enacting these Orders) this permission shall only permit the use of this one car parking space for use of the catering unit and for no other use or purpose unless otherwise agreed on application to the Local Planning Authority.

REASON: To enable the Local Planning Authority to fully consider the effects of development normally permitted by these orders in the interest of protecting the character, vitality and viability of the site in accordance with policies, EMP2, D1 and D2 of the Welwyn Hatfield District Plan, 2005.

DRAWING NUMBERS

3. 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
0618_01		Site Plan	3 July 2018
0618_03		Proposed General Arrangement, Elevations and Floor Plans	3 July 2018
0618_02		Existing General Arrangement	3 July 2018

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 which may affect the land.

2. The granting of this permission does not convey or imply any consent to build upon or access from any land not within the ownership of the applicant.

Determined By:

Mr Chris Carter
7 September 2018