

<b>Application Number</b>	10/1148/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	10th November 2010	<b>Officer</b>	Miss Amy Lack
<b>Target Date</b>	5th January 2011		
<b>Ward</b>	Cherry Hinton		
<b>Site</b>	11 High Street Cherry Hinton Cambridge Cambridgeshire CB1 9HY		
<b>Proposal</b>	Change of use to a mixed Restaurant/Cafe and take-away use (mixed use Classes A3 and A5).		
<b>Applicant</b>	Mr Hussain 8 Maners Way Cambridge Cambridgeshire CB1 8SL		

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## **1.0 SITE DESCRIPTION/AREA CONTEXT**

- 1.1 The site is located on the High Street in Cherry Hinton, designated a Local Centre in the Cambridge Local Plan (2006). The property is situated in the south end of the Local Centre, on the corner of the High Street and Mill End Road.
- 1.2 The premises is a relatively modern building, attached and under the same roof as the neighbouring shop also part of 11 High Street, which operates as an Indian Supermarket and Post Office. At first floor level across the width of these properties are flats, which are accessed independently of the commercial units below.
- 1.3 The property has recently been granted permission to operate as a Restaurant (Use Class A3) under planning reference 09/0392/FUL. Prior to this the unit had been a vacant A2 Use (Financial and Professional Services) since June 2008.
- 1.4 Outside the property is a pedestrian crossing and just to the south a lay-by, which has the capacity to accommodate approximately three cars. However, this lay-by has a 30

minute parking restriction until 18:00 when it is lifted and which coincides with the opening time of the existing restaurant. A cycle lane runs immediately adjacent with a zebra crossing, followed by a mini roundabout to the north at the junction of the High Street with Mill End Road.

- 1.5 The local centre has a variety of uses within it and appears to be a vibrant and well used, providing a range of amenities to the local community, the majority of which are to the north of the designated local centre at Rectory Terrace. The surrounding area has a high concentration of residential properties. The site does not fall within a Conservation Area nor does it fall within a controlled parking zone.

## **2.0 THE PROPOSAL**

- 2.1 This application seeks permission for a change of use from Restaurant (Use Class A3) to a mixed Restaurant and Take Away (Use Classes A3/ A5). The application proposes the takeaway use to operate alongside the existing restaurant function.
- 2.2 The application is accompanied by the following supporting information:
1. Supporting Statement; and
  2. Petition of support from local residents and customers.

## **3.0 SITE HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Outcome</b>
09/0392/FUL	Change of use from vacant A2 (Betting Office) to A3 (Restaurant) use.	A/C
06/0077/FUL	Installation of 1.0m Diameter Satellite Antenna on flat roof mounting.	A/C
05/0788/FUL	Change of use from A1 (retail) to A2 (financial services) for use as a licensed betting office.	A/C

## **4.0 PUBLICITY**

4.1 Advertisement:	No
Adjoining Owners:	Yes
Site Notice Displayed:	Yes

## **5.0 POLICY**

### **5.1 Central Government Advice**

Planning Policy Statement 1: Delivering Sustainable Development (2005)

Planning Policy Statement 4: Planning for Sustainable Economic Development (2010)

Planning Policy Guidance 13: Transport (2001)

Circular 11/95 – The Use of Conditions in Planning Permissions

### **5.2 East of England Plan 2008**

SS1: Achieving Sustainable Development

T1: Regional Transport Strategy Objectives and Outcomes

T9: Walking, cycling and other non-motorised transport

T14: Parking

ENV7: Quality in the Built Environment

WM6: Waste Management in Development

### **5.3 Cambridge Local Plan 2006**

3/1 Sustainable development

3/4 Responding to context

3/7 Creating successful places

4/13 Pollution and amenity

6/10 Food and drink outlets.

8/2 Transport impact

8/6 Cycle parking

8/10 Off-street car parking

## **6.0 CONSULTATIONS**

### **Cambridgeshire County Council (Engineering)**

- 6.1 The proposed use has the potential to increase short term stopping of motor vehicles on the zig-zag markings associated

with the zebra crossing, and with potential for conflict with the significant number of cyclists using the road. Under these circumstances the Highway Authority requests that the application be refused on the grounds of highway safety.

### **Head of Environmental Services**

- 6.2 Takeaway establishments can cause disturbance in terms of odour and noise to the occupants of nearby residential properties. Noise is likely to be from patrons, vehicles and the operation of plant equipment. Should permission be granted I recommend a condition is attached restricting the hours of opening to between 11:00hours and 00:00hours.
- 6.3 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

## **7.0 REPRESENTATIONS**

7.1 Councillor Taylor and Councillor Dryden have both requested the application be determined at South Area Committee.

7.2 The owners/occupiers of the following addresses have made representations:

- 5, Mill End Road, Cherry Hinton, Cambridge CB1 9JW

7.3 The representations can be summarised as follows:

- The supporting statement suggests that the majority of customers are expected to be locals who will come on foot. However, given that this site is at the very far end of the High Street and the village itself, most customers are likely to come by car;
- The two lay-bys are very small and heavily used by residents visiting the various shops here;
- This proposal will lead to an increase in noise and disturbance and result in an even busier and more dangerous section of the high street, accentuated by the close proximity to a mini roundabout. This is likely to lead to more unauthorised parking, on this and surrounding streets resulting in conflicts and danger to pedestrians and cyclist.

7.4 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

## **8.0 ASSESSMENT**

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of development
2. Context of site, design and external spaces
3. Disabled access
4. Residential amenity
5. Refuse arrangements
6. Highway safety
7. Car and cycle parking
8. Third party representations

### **Principle of Development**

8.2 Policy 6/7 of the Cambridge Local Plan (2006) states that additional development within classes A1, A2, A3, A4 and A5 will be permitted providing that it will serve the local community and is of an appropriate nature and scale to the centre. The designated local centre on the High Street in Cherry Hinton provides a diverse range of amenities, which serve a localised catchment area. The latter part of this policy refers to change of uses from A1 to A2, A3, A4 or A5. While this local centre does have in excess of 60% of units in Class A1 (shops) usage, which this policy strives to retain, as the property is already classified as a Class A3 use, this part of the policy is not applicable to this application.

8.3 Both PPS4 and policy 6/10 of the Cambridge Local Plan (2006) emphasise the need to consider the vitality and viability of existing centres when determining an application. Policy 6/10 states that developments for Use Classes A3, A4 and A5 will be permitted if:

- a. the proposal will not give rise to unacceptable environmental problems or nuisance and the individual and cumulative impact of the development is considered acceptable;

b. it is in an existing centre or is part of a mixed use area in an urban extension or the Station Area.

8.4 The principle of development relates to the immediate context and any potential impact upon the vitality of that area. The change of use proposed looks to incorporate a takeaway element to an existing restaurant function. The site is in a local centre and therefore complies with b). I am however concerned, given responses from the highway authority in particular, but also because of the relationship to other properties, particularly residential property nearby, as to whether the detail of a) is met. I will address this below, but while I believe the principle of a takeaway in this location is acceptable if the tests of policy 6/10 of the Cambridge Local Plan (2006) can be met.

### **Context of site, design and external spaces**

8.5 The locality is predominantly characterized by residential dwellings with other uses concentrated within this local centre, which is a mixed use of Class A1, A2, A3, A4 and A5 uses sometimes with residential accommodation above.

8.6 Policy 3/4 is relevant in that all new development is expected to respond to the local context and draw inspiration upon key characteristics of its surroundings. The policy criteria is there to ensure a high quality development can be achieved. In terms of the proposed development, the application seeks to provide a mixed Class A3/A5 use at the front of the property, which would reflect the mixed uses along the High Street frontage, while still retaining the residential accommodation above.

8.7 This application is for a material change of use only, as no external alterations are proposed and no additional floor space is to be created as part of this application. As such, there will be no adverse visual impacts upon the character or appearance of the property or the street scene.

8.8 I am of the view that the proposal would not have a detrimental impact on the visual amenity of the area different from that of its current use as a restaurant. I therefore consider the proposal is compliant with East of England Plan (2008) policy ENV7, and Cambridge Local Plan (2006) policy 3/4.

## **Disabled access**

- 8.9 This application only seeks consent for a change of use. The shopfront is to remain unaltered by this proposal. The existing arrangement which is to be retained provides a level threshold into the property, which makes it accessible and compliant with East of England Plan (2008) policy ENV7, and Cambridge Local Plan (2006) policy 3/7.

## **Residential Amenity**

### Impact on amenity of neighbouring occupiers

- 8.10 A significant proportion of the properties within the local centre consist of a commercial unit at ground floor level and then residential accommodation on the upper floors. There are no proposals to alter the external appearance of the property or to locate tables and chairs outside the premises, nor does the application seek to extend the existing opening hours that the restaurant operates during. However, changing the premises to a mixed Class A3/A5 use has the potential and is very likely to increase the amount of noise and disturbance as a result of what will undoubtedly be an increased number of comings and goings associated with the proposed take-away use. If permitted, this will be the only A5 use in this small parade of shops. The A3 use was accepted previously on the reasonable assumption that customers would visit the premises for a longer period and be contained within the building, save for when they were coming and going and that any vehicle movements would be occasional. In my opinion the A5 use will increase the number of people going into and out of the premises, increase the number of vehicle movements and the associated disturbance of stopping and starting of vehicles and the opening and shutting of car doors. This use will also increase the likelihood of people congregating in front of the premises late into the evening once they have purchased their food.
- 8.11 I acknowledged above that there are other food and drink establishments that are open into the evening and offer a takeaway facility along the High Street. However, these are located to the north of this local centre at Rectory Terrace, some distance from the small terrace of units that the application site forms a part. The car parking also more generous nearby.

- 8.12 The change of use, if approved, could also potentially result in nuisance arising from smells and odour from the A3/A5 use. The Environmental Health Officer recognises that there are residential units situated in close proximity and raises no objection to the proposal, however, they advise that, if approved, a condition to restrict the hours of opening to between 11:00hours and 00:00hours should be imposed. I note that a condition was imposed to previous planning application reference 09/0392/FUL which granted permission for the use of the premises as a Restaurant requiring details of fume filtration/extraction to be agreed prior to the commencement of the use permitted and that these details remain outstanding.
- 8.13 In my opinion the noise and disturbance from this greater level of activity will be detrimental to the amenity that neighbours should reasonably expect to enjoy and therefore the proposal fails to adequately respect this amenity and the constraints of the site. As such, I believe it fails to comply with East of England Plan (2008) policy ENV7, and Cambridge Local Plan (2006) policies 3/4, 4/13 and 6/10.

### **Refuse Arrangements**

- 8.14 No details have been provided for the storage of waste but I consider there to be adequate space to the rear of the property to accommodate the necessary storage and that any additional waste generated from the proposed takeaway use can be satisfactorily accommodated by the existing refuse storage that has been agreed for the existing restaurant use. As such, I consider the proposal compliant with East of England Plan (2008) policy WM6 and Cambridge Local Plan (2006) policy 3/12.

### **Highway Safety**

- 8.15 The Highway Authority have objected to this proposal on the ground of highway safety and request that it be refused. The change of use has the potential to increase short term stopping of cars and for this to happen on the markings associated with the pedestrian crossing, which is in immediate proximity to what is not an easy junction; it will unquestionably increase the potential conflict between stopping cars and cyclists and pedestrians crossing the road and movements in and out of Mill



End Road. While the lay-by might be considered to go some way towards meeting the parking needs, it is already very well used in the evenings and there is not therefore any real capacity.

8.16 Third party objections have also raised similar concerns, worried that the proposal will result in further traffic implications for the area, which already suffers from congestion. The lay-by outside the premises is limited in size and can only accommodate approximately 3 cars. While consideration of the consented restaurant use concluded that customers would be eating at the premises which generates a different parking pattern than a take-away use and as a result customers are more likely to look to longer term parking as is available in public car parks in Colville Road or Chelwood Road, it was acknowledged that a takeaway use here would not be acceptable. The complexity of the road layout and limited parking available along this section of the High Street means it is not capable of accommodating of a takeaway use and the type of traffic it would generate, which would unduly overburden the adjacent short stay car parking and encourage illegal parking.

8.17 The introduction of a Class A5 takeaway to this site is unacceptable in that it will increase the demand for short-term parking on a site without adequate off-street car-parking provision, in a location that is very close to a busy junction of vehicular, cyclist and pedestrian traffic, and in an area where there is already very intensive competition for on-street parking spaces in adjacent streets that already results in illegal parking. Any increase in demand for short term parking, such as that which would be generated by the proposed change of use, would exacerbate the already unsatisfactory situation and be detrimental to the safety of other users of the public highway, particularly cyclists. The proposal is, therefore, contrary to East of England Plan (2008) policy T1 and Cambridge Local Plan (2006) policies 6/10, 8/2 and 8/10.

### **Car and Cycle Parking**

8.18 The premises does not have any car parking associated with it and the applicant does not propose to provide any due to the constrained nature of the site. For customers visiting to stay and use the restaurant I am satisfied that two public car parks in

the vicinity, both of which are no more than a 5 minute walk away and its 'local centre' location which is well served by public transport, sufficiently offsets this lack of provision and it is not necessary for the applicant to provide on site car parking. With regard to the takeaway function for the reasons discussed above the arrangements for stopping to order and pick up food are not satisfactory. However, in terms of meeting the City Council's Car Parking Standards, which are maximum standards, even in making no provision the proposal is compliant with the Car Parking Standards set within the Cambridge Local Plan (2006) and compliant with policy 8/10 and East of England Plan (2008) Policy T9.

8.19 The premises does not have any cycle parking spaces associated with it and the applicant does not propose to provide any. While there is limited space to the front of the property due to the presence of a letter box and a narrow shop frontage, to allow for cycle parking to be provided on site it would have to be located to the rear of the property. If parking were to be sited here it would not be visible and as a result is likely to be used. As such, I do not consider it reasonable to impose a condition requiring cycle provision to be made to serve the proposed takeaway use.

8.20 In my opinion the proposal is compliant with East of England Plan (2008) policies T9 and T14, and Cambridge Local Plan (2006) policies 8/6 and 8/10.

### **Third Party Representations**

8.21 I believe that I have addressed the concerns raised by the third party objection received within the report.

## **9.0 CONCLUSION**

9.1 The takeaway element of the proposed mixed A3/A5 use would be likely to result in short stay car parking on the highway and pavement on this busy part of the High Street, which in addition to vehicular traffic experiences a high volume of cycle and pedestrian movement. Parking is likely to obstruct the highway and create a hazard to other road/pavement users potentially having implications for highway safety. Further to this the increase in comings and goings to the premises and a tendency for people to congregate outside of takeaway establishments

whilst waiting for orders or consuming them is likely to cause unacceptable noise and disturbance to the immediate surrounding residential area. I recommend the application be refused.

## **10.0 RECOMMENDATION**

## **REFUSE**

for the following reasons:

1. The takeaway element of the proposed mixed A3/A5 use would be likely to result in short stay car parking on the highway close to the premises, which is located at a narrow and busy part of the High Street, with a pedestrian crossing immediately to the front and very close to the junction with Mill End Road, where there are high volumes of cycle and pedestrian traffic as well as vehicular traffic. These factors combine to make this a location where cars parking close to the junction to use the takeaway, even for short periods, are likely to obstruct the highway and create a hazard for other users, vehicles, cycles and pedestrians. The development would as a consequence prejudice highway safety, contrary to East of England Plan (2008) policy T1, Cambridge Local Plan (2006) policy 8/2 and advice provided by Planning Policy Statement 1 - Delivering Sustainable Development (2005) and Planning Policy Guidance 13 Transport (2001).
2. The proposal, because of the nature of a Class A5 Use and its relatively short-term customers and higher turnover levels compared to customers of the existing Class A3 use, will be likely to generate significantly greater levels of activity to the frontage of the premises in a predominantly residential area. The noise and disturbance from this greater level of activity will be detrimental to the amenity that neighbours should reasonably expect to enjoy. For these reasons the proposal, fails to respond to its context or relate well to its surroundings and is contrary to Cambridge Local Plan 2006 policy 3/4; gives rise to unacceptable environmental problems or nuisance contrary to Cambridge Local Plan 2006 policy 6/10; and adversely affects the environmental amenity of others, contrary to Cambridge Local Plan 2006 policy 4/13.

## **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

Under Section 100D of the Local Government Act 1972, the following are “background papers” for each report on a planning application:

1. The planning application and plans;
2. Any explanatory or accompanying letter or document from the applicant;
3. Comments of Council departments on the application;
4. Comments or representations by third parties on the application as referred to in the report plus any additional comments received before the meeting at which the application is considered; unless (in each case) the document discloses “exempt or confidential information”
5. Any Structure Plan, Local Plan or Council Policy Document referred to in individual reports.

These papers may be inspected by contacting John Summers (Ext.7103) in the Planning Department.