

<b>Application Number</b>	17/1091/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	22nd June 2017	<b>Officer</b>	Charlotte Burton
<b>Target Date</b>	17th August 2017		
<b>Ward</b>	Petersfield		
<b>Site</b>	8 Mill Road Cambridge CB1 2AD		
<b>Proposal</b>	Change of use from a charity shop to a restaurant and new ventilation system.		
<b>Applicant</b>	Mr Roi Vaquero 88 Histon Road Cambridge CB4 3GP		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <p>The change of use would promote the viability and vitality of the Mill Road District Centre</p> <p>The proposal would not harm the residential amenity of the flats above and nearby</p>
RECOMMENDATION	APPROVAL

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

- 1.1 No. 8 is located on the western end of the Mill Road District Centre. The property has an existing A1 (shops) use at the ground floor with separate residential units above. There is a small garden at the rear. The site is within the Mill Road area of the Central Conservation Area and is within the controlled parking zone. There are no other relevant site constraints.

## **2.0 THE PROPOSAL**

- 2.1 The proposal is for change of use from a charity shop to a restaurant and new ventilation system. During the course of the application, additional information was submitted in response to queries raised by the Environmental Health team.

### 3.0 SITE HISTORY

3.1 There is no relevant recent planning history for the premises.

### 4.0 PUBLICITY

4.1 Advertisement:	Yes
Adjoining Owners:	Yes
Site Notice Displayed:	Yes

### 5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge Local Plan 2006		3/4 3/7 3/14 3/14
		4/11 4/13
		6/7
		8/2 8/6 8/10

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012
	National Planning Policy Framework – Planning Practice Guidance March 2014
	Circular 11/95 (Annex A)

Supplementary Planning Guidance	Sustainable Design and Construction (May 2007)  Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document (February 2012)
Material Considerations	<u>City Wide Guidance</u>  The Cambridge Shopfront Design Guide (1997)
	<u>Area Guidelines</u>  Mill Road Area Conservation Area Appraisal (2011)

#### 5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, the following policy in the emerging Local Plan is of relevance:

- Policy 72: Development and change of use in district, local and neighbourhood centres

## 6.0 CONSULTATIONS

### **Cambridgeshire County Council (Highways Development Management)**

#### 6.1 No objection.

## **Environmental Health**

### Initial comments

- 6.2 Unacceptable. There is ambiguity concerning potential noise, smoke and odour impacts causing significant adverse harm to quality of life / amenity of surrounding sensitive receptors. The proposal is in close proximity to existing receptors and as such, a significant amount of detail is required at this stage as evidence that detriment to local amenity will not occur.

### Comment on additional information

- 6.3 Further information has been submitted with regard to noise assessment, details of the proposed cooking practices, the proposed extract system and an odour risk assessment. The additional information is acceptable subject to conditions to control construction hours, hours of operation, delivery hours and odour control. Confirmation needed that the proposed smoking area has been removed.

## **Refuse and Recycling**

- 6.4 No comments received.

## **Policy Section**

- 6.5 No comments received.
- 6.6 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 The owners/occupiers of the following address have made representations objecting to the proposal:

☐ 6a Mill Road x 2

- 7.2 The representations can be summarised as follows:

☐ Concentration of food premises instead of retail units would harm the character of Mill Road

- ☐ No means of controlling delivery for takeaways which would be unfair competition
- ☐ Demand for A1 units on Mill Road
- ☐ Increase in noise from food unit
- ☐ Impact of outdoor smoking area on students living nearby due to smell and noise
- ☐ Increase in congestion and traffic
- ☐ Drinking license could increase level of disruptive behaviour

7.3 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. Residential amenity
3. Context of site, design and external spaces / impact on heritage assets
4. Refuse arrangements
5. Highway safety
6. Car and cycle parking
7. Disabled access
8. Third party representations

### **Principle of Development**

8.2 Policy 6/7 of the Cambridge Local Plan (2006) states that in district and local centres, change of use from A1 to other uses including A3 will only be permitted provided the percentage of A1 uses does not fall below 60%. The applicant has submitted an analysis of the uses of premises within the western part of the Mill Road district centre (between the railway bridge and Donkey Common). According to this, the percentage of A1 uses would be approximately 58%. This would be marginally below the threshold and in conflict with policy 6/7. However I am of the view that in this case there are material considerations that indicate policy 6/7 is now out of date.

8.3 The emerging Local Plan (2014) policy 72 is more relaxed than current local planning policy in terms of protecting the percentage of A1 uses in district centres. It states that changes of use from A1 to another centre use (including A3) will be permitted where the number of properties in A1 use would not fall below 55%, which the current proposal would comply with. Although this policy has outstanding objections to it, it does give a sense of the general travel of planning policy in terms of retail protection and district centres. This is more consistent with the NPPF which supports the 'viability and vitality' of town centres (and district centres) (paragraph 23).

8.4 This inconsistency between the adopted and emerging policy is highlighted in a recent appeal decision which confirms that little weight can be given to policy 6/7. The appeal decision relates to a change of use from A1 to A5 in a different local centre within the city (15/0765/FUL / APP/Q0505/W/15/3137889) where the percentage of A1 uses would have fallen well below the 60% threshold. The Inspector concluded:

*"... the proposed change of use from Class A1 to Class A5 would not have a detrimental effect on the underlying function of the Hills Road Local Centre to meet day-to-day needs as promoted in both CLP Policy 6/7 and emerging Local Plan Policy 72. ... I have only attributed little weight to the conflict with the provisions of CLP Policy 6/7 with regards to a numerical proportion of A1 uses. This conflict is outweighed by the lack of tangible harm to the vitality and viability of the Local Centre, the economic benefits identified and the consistency with the emerging Local Plan Policy 72, to which I have ascribed more weight given that it better reflects the flexible approach to uses in town centres (and by association local centres) espoused in the NPPF and PPG. In this way the proposal would be in conformity with paragraphs 14, 23 and 70 of the NPPF. It would also accord with the core planning principle at paragraph 17 of the NPPF to support sustainable economic development."*

8.5 Moreover, recent changes to the Town and Country Planning Act (General Permitted Development) Order 2015 (as amended) have introduced new permitted development rights for change of use from A1 to A3 (Schedule 2, Part 3, Class C). This permits up to 150 square metres of floor space in the building to change from A1 to A3, subject to a prior approval

process as to the environmental health impacts of the proposal. The current proposal would be for 203 sqm which is above this threshold, so would not be permitted development, however this change to the permitted development rights has rendered policy 6/7 partially incapable of being effective. It points to a conflict between adopted policy - which is 11 years old - and emerging policy/permitted development rights set out in Government guidance which promotes more flexibility.

- 8.6 For these reasons, I give limited weight to the conflict with policy 6/7 in line with the Inspector's conclusions. The current and future direction of national and local planning policy supports the vitality and viability of centres and in my opinion the proposed change of use from A1 to A3 would not have a harmful impact on the Mill Road district centre. There is a vibrant mix of uses along Mill Road including A3 uses and this use would be appropriate. Moreover, it is a material consideration that A1 units up to 150 sqm could change use to A3 under the prior approval permitted development rights and I do not consider that the change of use of an additional 50 sqm would have a significant impact on the district centre. The change of use is acceptable in principle.

### **Context of site, design and external spaces / impact on heritage assets**

- 8.7 The proposal includes the installation of ventilation equipment and an external cold room. There would be no alteration to the front elevation (changes to signage would be subject to advertisement consent as appropriate) and the work to the rear would not be visible from the public highway within the conservation area. The rear elevation has previously been altered and plant equipment added. In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/14 and 4/11.

### **Residential Amenity**

- 8.8 The upper floors are residential and have entrances separate from the ground floor unit. The Environmental Health team has assessed the proposal in terms of odour/smoke and noise and is satisfied with the proposed use and ventilation equipment subject to conditions to control operation and delivery hours, and requiring the installation of odour filtration/extraction

equipment prior to first use. The customer smoking area has been removed from the plans and I have recommended a condition to control the use of this area to mitigate the impact of noise and smoke on the residential units above. Subject to this, in my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7 and 4/13.

### **Refuse Arrangements**

- 8.9 The site plan shows a bin store area at the rear of the property. I have not received comments from the Waste Team however this is a similar arrangement to the existing premises and to neighbouring units. In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/12.

### **Highway Safety**

- 8.10 The Highways Authority has not objected to the proposal and I accept their advice. Third parties have commented that the proposed use could generate additional trips to and from the site. However, in my opinion, this is unlikely to have a significant impact compared to the existing situation. Mill Road is a busy main road which already has a high traffic flow and I do not consider that the proposed change of use would have a significant impact on this. In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

### **Car and Cycle Parking**

- 8.11 There would be space at the rear of the property for staff to keep bicycles and there are cycle parking hoops available on street for customers. The unit is within the district centre and the controlled parking zone and the use without parking is acceptable. In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

### **Disabled access**

- 8.12 The current shop has level access from the external pavement and this arrangement would not alter with the proposed restaurant. The proposal includes a disabled access toilet. I consider that the proposal can provide suitable internal access



to disabled users to comply with the relevant legislation, which is outside planning control.

### Third Party Representations

8.13 I have addressed these as follows:

Representation	Response
Concentration of food premises instead of retail units would harm the character of Mill Road	I have provided assessed the proposal against Local Plan (2006) policy 6/7 in my report above and concluded that there are material considerations which make it difficult to resist the change of use in principle. The current national and emerging local policy is towards greater flexibility to support the viability and vitality of centres. In my opinion, the A3 use would contribute to the existing mix of uses along Mill Road and towards the vitality of the centre. I do not consider the loss of an A1 unit would cause significant harm.
Demand for A1 units on Mill Road	
No means of controlling delivery for takeaways which would be unfair competition	The proposed use for A3 does not include takeaways.
Increase in noise from food unit	The Environmental Health team has reviewed the application and has recommended opening hours which they are satisfied would ensure the premises have an acceptable impact on residential amenity. I accept their advice.
Impact of outdoor smoking area on students living nearby due to smell and noise	The smoking area has been removed from the plans and I have recommended a condition to control this.

Increase in congestion and traffic	See paragraph 8.10
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## 9.0 CONCLUSION

- 9.1 The third party representations primarily relate to the principle of the change of use and the impact on residential amenity. I have addressed these within my report. The current policy which restricts the change of use from A1 to A3 is outdated and inconsistent with national and emerging policy which promotes greater flexibility. The Environmental Health team raises no objection. For these reasons, the recommendation is for approval subject to conditions.

## 10.0 RECOMMENDATION

**APPROVE** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the requirements of section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

Reason: In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

3. No construction work or demolition work shall be carried out or plant operated other than between the following hours: 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan 2006 policy 4/13)

4. The A3 (restaurants and cafes) use hereby permitted shall not operate outside the hours of 07:00 and 23:00 daily, unless otherwise approved in writing by the Local Planning Authority. There shall be no activities on the site associated with the permitted use outside the agreed hours.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan 2006 policy 4/13).

5. Deliveries to or dispatches from the site associated with the A3 (restaurants and cafes) use shall not be made outside the hours of 07:00-22:00hrs on Monday to Saturday and 09:00- 19:00hrs on Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan 2006 policy 4/13).

6. Prior to commencement of the use hereby permitted, an odour filtration/extraction system shall be fully installed in accordance with plans and details that have been submitted to and approved in writing by the Local Planning Authority prior to installation. The development shall be carried out in accordance with the approved details and retained as such thereafter.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan 2006 policy 4/13).

7. The external areas at the rear of the premises shall not be used as a smoking area by staff, customers or any others associated with the use hereby permitted at any time. There shall be signage to advise that the area is not to be used for smoking and customers shall be prevented from accessing the rear area except in emergencies.

Reason: In order to protect the residential amenity of neighbouring properties (Cambridge Local Plan 2006 policy 4/13).