

Application Number	18/0221/FUL	Agenda Item	
Date Received	16th February 2018	Officer	Rob Brereton
Target Date	13th April 2018		
Ward	West Chesterton		
Site	48 Chesterton Road Cambridge Cambridgeshire CB4 1EN		
Proposal	Change of use from A1 (Shop) to A3/A5 (Restaurant/hot food takeaway) and installation of an extraction fan exhaust unit to rear elevation following demolition of existing rear lean-to.		
Applicant	Mr Adem Ozkurtulus 2 The Homing Cambridge CB5 8SD		

SUMMARY

The development accords with the Development Plan for the following reasons:

- ☐ The principle of the proposed change of use is in line with decisions made by the planning inspectorate.
- ☐ The additional information provided indicate that the impact that the impacts of the proposed plat in terms of noise, odour and vibration meet national standards and overcome the previous reason for refusal. Therefore, I consider the impact on neighbouring properties will be acceptable.

RECOMMENDATION APPROVAL**1.0 SITE DESCRIPTION/AREA CONTEXT**

- 1.1 No. 48 is located on the southern side of Chesterton Road. It is a two-storey building with a commercial premises on the ground floor and a flat above. The ground floor was previously used as a jewellers (use class A1) and has been vacant for a substantial period of time. The site is adjacent to the boundary of the De

Freville Conservation Area.

2.0 THE PROPOSAL

- 2.1 Planning permission is sought for the change of use from A1 (Shop) to A3/A5 (Restaurant/hot food takeaway) and installation of an extraction fan exhaust unit to rear elevation following demolition of existing rear lean-to.
- 2.2 While the application has not been amended since the original scheme was proposed, a substantial amount of further information has been provided officer concerns with the noise and odour emissions from the proposed extraction fan exhaust.

3.0 SITE HISTORY

Reference	Description	Outcome
17/1779/FUL	Change of use from A1 (Shop) to A3/A5 (Restaurant/hot food takeaway) and installation of an extraction fan exhaust unit to rear elevation following demolition of existing rear lean-to.	Refused*
C/90/0620	Extension to shop and flat (garage with bedroom above, to rear	Refused
C/87/0881	Installation of new shopfront.	Approved

* This application was refused for lack of information regarding plant to be used and how noise and odour would be abated.

4. PUBLICITY

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|-----|------------------------|-----|
| 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
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Cambridge Local Plan 2006	3/1 3/4 3/7
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4/11 4/13

6/7 6/10

8/1 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
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National Planning Policy Framework – Planning Practice Guidance March 2014

Circular 11/95 (Annex A)

Technical housing standards – nationally described space standard – published by Department of Communities and Local Government March 2015 (material consideration)

Supplementary Planning Guidance	Sustainable Design and Construction (May 2007)
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Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document (February 2012)

Area Guidelines

De Freville Conservation Area Appraisal (2009)

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, there are no policies in the emerging Local Plan that should be taken into account.

6.0 CONSULTATIONS

Cambridgeshire County Council (Highways Development Management)

- 6.1 The Highway Authority does not consider that this application will have any significant adverse impact upon the operation of the highway network.

Environmental Health

- 6.2 Further information has provided full details of the exact odour abatement system to be installed in accordance with Annex B and C of DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems prepared by Netcen on behalf of Department for Environment, Food and Rural Affairs (DEFRA) dated January 2005.

Fusion Hot Ltd have submitted a document advising that the following filtration parts will be installed which are considered compliant:

- ☐ Carbon PA242424 Model – Purified Air
- ☐ UV-100 Unit Model – Purified Air
- ☐ Filters – Pleated baffle filter 023 – Purified Air

A compliance condition is recommended to ensure the above filtration is installed, maintained and not altered. The acoustic report by Philip Acoustic Ltd is also considered acceptable and a condition is recommended that this report should be shall be fully implemented, maintained and not altered.

A condition limiting the occupation of the first floor flat to be linked with the proposed A3/A5 use is also recommended to ensure the end user of this flat is not unduly impacted by noise and odour. A condition limiting the hours of use to those specified in the application form is recommended to ensure neighbours amenity.

Conservation Team

- 6.3 It is considered that there are no material Conservation issues with this proposal.

Drainage

- 6.4 No comment.
- 6.5 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 addresses have made representations:

- ☐ 71 Glisson Road Cambridge Cambridgeshire CB1 2HG
- ☐ 3 Mitwell Close Caldecote Cambridge CB23 7ZG

- 7.2 The representations can be summarised as follows:

- ☐ Bringing property at 48 back in use and bringing more employment and life to the area is welcomed.
- ☐ There are concerns odour management of cooking pizzas, burgers and kebabs.
- ☐ Assurances are sought from the applicant that the proposal would not attract drunken customers into the immediate area.
- ☐ The opening times should not be extended past 11pm as this would generate problems in the area.
- ☐ The use would create an excessive amount of noise late at night.
- ☐ The odours emitted are objected to.
- ☐ There are already sufficient food outlets in the area.

- 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. Context of site, design
3. Residential amenity
4. Refuse arrangements
5. Highway safety
6. Car and cycle parking
7. Third party representations

Principle of Development

- 8.1 Policy 6/7 Shopping Development and Change of Use in District and Local Centres of the Cambridge Local Plan 2006 states 'change of use from A1 to A2, A3, A4 or A5 in District and Local Centres will only be permitted provided the percentage of A1 uses does not fall below 60% (measured by number of units). Change of use from A1 to other uses will not be permitted.'
- 8.2 Planning reference 17/1900/FUL for No. 46 Chesterton Road recently approved a retrospective change of use from A1 to A1 with an associated A3 or A4 use in the alternative. One of the accepted arguments put forward by the agent of this application to try and overcome policy 6/7 of the Cambridge Local Plan (2006) was that an initial study they undertook of the Mitcham's Corner District Centre revealed that 45% of the units are in an A1 use, which is significantly below the required 60%.
- 8.3 I also note an appeal case in 2015 (Cambridge City Council reference: 15/0765/FUL and Inspectorate reference: APP/Q0505/W/15/3137889) at 28 Hills Road regarded the change of use of the ground floor from Class A1 to Class A5 (hot food take-away) undermines policy 6/7. Cambridge City Council refused this application, one of the reasons being the proposal contravened Policy 6/7 among other things. The inspectorate dismissed this reason for refusal at appeal. He stated *'this policy*

is now at least 10 years old during which time the landscape for Class A1 retail operations and how people access retail services has changed substantially'. The inspector went on to conclude 'I find Cambridge Local Plan (2006) Policy 6/7 to be dated and as such I share the appellant's view that only little weight should be given to Cambridge Local Plan (2006) Policy 6/7 when considered against the content of paragraph 215 of the National Planning Policy Framework'.

- 8.4 The inspector's assessment found a lack of tangible harm to the vitality and viability of a Local Centre when there is a change of A1 use to A2, A3, A4 or A5. He found the economic benefits consistent with the emerging Local Plan Policy 72, and paragraphs 14, 23 and 70 of the NPPF.
- 8.5 Taking the above into account, I consider the proposed change of use is acceptable and would bring back a vacant unit into use that would add to the vitality and viability of this District Centre.
- 8.6 Policy 6/10 Food and Drink Outlets of the Cambridge Local Plan 2006 states: Development for Use Classes A3, A4 and A5 (food and drink) will only be permitted:
- A. where the proposal will not give rise to unacceptable environmental problems or nuisance and the individual and cumulative impact of the development is considered acceptable; and
 - B. where it is in an existing centre or is part of a mixed use area in an urban extension or the station area.
- 8.7 The location of the proposal complies with criteria B of policy 6/10 as it is located on a main street within a district centre. Whether it complies with criteria A will be examined in the paragraphs below.

Context of site, design and impact on heritage assets

- 8.8 The only work proposed to the front elevation removes the existing first floor clock. As this is not development it is considered acceptable. To the rear a flue is proposed and demolition of a single storey extension. This lean-to extension appears to be of no particular historic or architectural interest and there is no objection to its demolition. The amended flue design on the rear elevation would extend above the ridge, this is not uncommon in this location. I do not consider this flue

would be overly visible from the streetscene or any public views from the Conservation Area to the south because of its narrow profile. This is also supported by the Conservation Officer. I therefore consider it would have an acceptable impact on the Conservation Area subject to a condition recommended by the Conservation Officer seeking details of the flue's material.

- 8.9 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7 and 4/11.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.10 Environmental Health are now satisfied that the applicant has provided adequate information to assess the noise, odour and vibration impact generated by the proposed use and its associated plant and extraction fan exhaust unit. These impacts do not exceed the relevant national standards. I therefore consider the proposed plants units and the location of the extraction fan exhaust would not unduly impact the occupiers of Nos. 46 and 50 Chesterton Road, Trafalgar Road and Trafalgar Street.
- 8.11 However, the level of impact to the flat above the proposed use would be more significant. Environmental Health state the impact to this first floor flat will only be acceptable if the occupation is linked by condition to the proposed A3/A5 unit. I note the applicant has provided land registry information indicating the entire building is within the applicants ownership and they have stated they would accept such condition, having based their acoustic reports on related occupation. A condition limiting the occupation of this first floor flat is therefore recommended.
- 8.12 Some letters of representation have voiced concerns that this change of use would create a disturbance problem on the surrounding streets. This is a management issue and would be outside of planning control. Third parties have also have concerns late opening hours would add to noise in the area. The applicant wishes this proposed use to be open 12.00 - 23.00 Monday – Friday, 12.00 – 23.00 Saturday and 12.00 – 23.00 Sundays and Bank Holidays 12.00 – 23.00. Whilst the requested opening hours are long, they are in line with the opening hours of nearby public hours and restaurants. I consider they would be

acceptable. Environmental Health has no objection to these opening hours and I have recommended a condition to ensure they would be followed.

- 8.13 In my opinion therefore 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, 4/13 and 6/10(b).

Refuse Storage

- 8.14 Refuse is to be stored and collected from the rear of the premises as there is a laneway to the rear. Again this is common in this location with other public houses and restaurants using this laneway. I consider there is an adequate amount of space to store at the rear, however, a condition is recommended for further details to ensure refuse storage would comply with RECAP waste management design guide 2012.

Highway Safety

- 8.15 There are no envisaged detrimental impacts to highway safety.
- 8.16 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

Car and Cycle Parking

- 8.17 The existing units along this section of Chesterton Road have no dedicated car or cycle parking provision but it is noted they are in a well-served, central location, which is easily accessible by bicycle, foot or public transport. There is some limited parking to the rear which can be used by staff. This is common in this location and considered acceptable. There are cycle stands on the pavement to the east of the site on Chesterton Road, outside No. 52 Chesterton Road (Frederick Hairdressers) or outside 62-, 64 Chesterton Road (Pack 'n' Send) and 68 Chesterton Road (Boots). Given that the site abuts the public highway, there are no opportunities to provide further cycle parking within the ownership of the site, but it is considered that there is sufficient public cycle parking to accommodate customers.
- 8.18 In my opinion the proposal, in these circumstances, is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

8.19 Third Party Representations

Concern	Response
Odour	See paragraph 8.10
Clientele	See paragraph 8.12
Noise	See paragraphs 8.10 and 8.11
Proliferation of food outlets	See paragraphs 8.1 to 8.5

9.0 CONCLUSION

- 9.1 The proposal with its additional submitted information would have an acceptable impact on the amenity of the occupiers of adjoining properties and no detrimental impacts are envisaged to the streetscene or nearby Conservation Area by the minor works proposed.

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. Prior to commencement the plant, associated equipment and acoustic mitigation as stated within the Philip Acoustic Ltd Acoustic report for a proposed kitchen extract fan system to be installed to serve a change of use class A3/A5 at 48 Chesterton road, Cambridge, CB4 1EN dated February 2018 (report 17271-002 revision A) & subsequent Philip Acoustic Ltd Briefing Note dated March 2018 (17271-003) shall be fully implemented, maintained and not altered.

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

4. Prior to commencement the odour abatement plant listed as the Carbon PA242424 Model - Purified Air, UV-100 Unit Model - Purified Air, Filters - Pleated baffle filter 023 - Purified Air in the document by Fusion Hot Ltd uploaded 23rd May 2018 shall be fully implemented, maintained and not altered.

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

5. The use hereby permitted shall not be open to customers outside the hours of 12:00hrs-23:00hrs daily (including Bank and Public Holidays).

Reason: To protect the amenity of adjoining and adjacent residential premises (Cambridge Local Plan 2006 Policy 4/13)

6. Collections from and or deliveries to the premises, shall only take place between the hours of 07:00 and 23:00. This shall include the placing of waste, including bottles, into waste receptacles outside the premises and the emptying of waste receptacles by a waste contractor.

Reason: To protect the amenity of adjoining and adjacent residential premises (Cambridge Local Plan 2006 Policy 4/13)

7. Prior to commencement the upper floor flat shall not be independently occupied or let at any time, other than by an employee associated with the class A3/A5 use hereby permitted within the ground floor. Thereafter the upper floor shall be used only in conjunction with the approved Class A3/A5 use.

Reason: To protect the amenity of the occupiers of the first floor flat at No. 48 Chesterton Road. (Cambridge Local Plan 2006 policy 4/13)

8. No development shall take place until samples of the materials to be used in the construction of the rear flue of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the external surfaces is appropriate. (Cambridge Local Plan 2006 policies 3/4 and 3/14)

9. No development shall commence until details of facilities for the covered, secured storage of bins for use in connection with the development hereby permitted shall be submitted to and approved by the local planning authority in writing. The approved facilities shall be provided in accordance with the approved details before use of the development commences.

Reason: To ensure appropriate provision for the secure storage of refuse. (Cambridge Local Plan 2006 policy 4/13)

INFORMATIVE: As the premises is intended to be run as a food business the applicant is reminded that under the Food Safety Act 1990 (as amended) the premises will need to be registered with Cambridge City Council. In order to avoid additional costs it is recommended that the applicant ensure that the kitchen, food preparation and food storage areas comply with food hygiene legislation, before construction starts. Contact the Commercial Team at Cambridge City Council on telephone number (01223) 457890 for further information.