

Application Number	19/0630/FUL	Agenda Item	
Date Received	8th May 2019	Officer	Nicholas MacDermott
Target Date	3rd July 2019		
Ward	Petersfield		
Site	2 Mill Road		
Proposal	Change of Use from A1 (Retail) to A3 (Restaurants and Cafes).		
Applicant	Mr V Swarna Flat 40 Regatta Court Oyster Row		

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 2 Mill Road is the first property on the south western side of Mill Road at its north western end close to Cambridge city centre. The application relates to the ground floor of a two storey building which has rooms in the roof space.
- 1.2 Whilst the south western side of Mill Road is wholly commercial in nature at ground floor level the north eastern side of the road is almost wholly residential in nature.
- 1.3 The site falls within the Mill Road Area Conservation Area. and is within the Controlled Parking Zone. It also falls within the Mill Road District Centre.

2.0 THE PROPOSAL

- 2.1 The proposal consists of a change of use of the existing A1 (Shops) use to an A3 (Restaurants and Cafes) use. The ground floor was last occupied by Oxfam.
- 2.2 The application is accompanied by the following supporting information:
1. Design and Access Statement
 2. Drawings

3.0 SITE HISTORY

Reference	Description	Outcome
C/78/0666	Use of premises as wine bar	Permitted
C/76/0157	Change of use from retail shop to restaurant	Permitted
C/85/0124	Change of use from retail shop to wine bar/restaurant (ground floor only) – Refused permission on the grounds that it would adversely affect the amenities of adjoining properties by reason of increased noise, disturbance and traffic generation.	Refused

4.0 PUBLICITY

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

5.0 POLICY

- 5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2018 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN	POLICY NUMBER
Cambridge Local Plan 2018	1, 24, 35, 55, 56, 61, 72

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

Central Government Guidance	<p>National Planning Policy Framework February 2019</p> <p>National Planning Policy Framework – Planning Practice Guidance from 3 March 2014 onwards</p> <p>Circular 11/95 (Annex A)</p>
<p>Previous Supplementary Planning Documents</p> <p>(These documents, prepared to support policies in the 2006 local plan are no longer SPDs, but are still material considerations.)</p>	Sustainable Design and Construction (May 2007)
Material Considerations	<p>Area Guidelines</p> <p>Mill Road Area Conservation Area Appraisal (2011)</p>

6.0 CONSULTATIONS

Cambridgeshire County Council (Highways Development Control)

6.1 No comment

Urban Design and Conservation team

6.2 "...there are no material Conservation issues with this proposal."

Environmental Health

6.3 The Environmental Health Officer has stated that information has been provided which confirms that no internal changes will be made and that no hot food will be prepared on site.

6.4 Details of the proposed sound insulation system have been provided which would be placed on the ceiling to insulate the residential flat above and this is considered acceptable. A compliance condition should be attached to the application.

6.5 A condition restricting the opening hours of the business from 8:30 to 22:00 Monday to Saturday and 8:30 to 18:00 on Sundays is recommended. The opening hours are those put forward by the applicant.

6.6 A condition restricting delivery and collection hours to 0700 – 2100 Monday to Saturday and 0900 – 1700 on Sundays and Bank/Public Holidays is also recommended.

6.7 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:

6a Mill Road (Owner of takeaway at No.6a and of flats above No.6)

7.2 The representations can be summarised as follows:

- Objection to the application on the grounds that there has been a significant increase in the number of food premises being established and a disappearance of retail units.
- There is no mechanism for controlling the type of A3 use, resulting in unfair distribution of competition and a proliferation of 'fast-food' businesses.
- Mill Road is suffering from a distinct lack of retail units.
- Inadequate consultation

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

Principle of Development

- 8.1 Policy 72 of the Cambridge Local Plan 2018 (CLP) states that proposals for centre uses other than retail will be permitted provided they complement the retail function and maintain or add to the vitality, viability and diversity of the centre and they would not give rise to a detrimental effect, individually or cumulatively, on the character or amenity of the area through smell, litter, noise or traffic problems.
- 8.2 Mill Road is identified as being a District Centre on the CLP Policies Map which means that the proposal needs to accord with Part d of Policy 72 which advises 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%.
- 8.3 The agent has carried out an assessment with regard to Part d of Policy 72 and concludes that there are 65 units along Mill Road between No 2 and the bridge with A class categorisation (A1-A5) of which 37 are Class A1 making up 57% of the total. With the loss of no 2 Mill Road that figure drops to 56%.

- 8.4 The current proposal would comply with the requirement of Part d of Policy 72 to maintain the number of properties in A1 (retail) use above a 55% minimum level. The principle of the proposed change of use from an existing A1 (shops) use to an A3 (restaurant/cafe) use is therefore considered to be acceptable
- 8.5 It should be noted that the Town and Country Planning Act (General Permitted Development) Order 2015 (as amended) allows for a change of use from A1 (Shops) to A3 (Restaurant), (Schedule 2, Part 3, Class C) under permitted development rights. This is subject however to the developer applying to the local planning authority for a determination as to whether the prior approval of the authority will be required with regard to noise, odour, waste, hours of opening, highway impacts, whether it is undesirable for the building to change to the proposed use. Class C permits up to 150 square metres of floor space in the building to change from A1 to A3. The application form states that the gross internal floorspace of the part of the building subject to the change of use application measures 114 square metres. Although submitted as a full application, the proposal would be eligible for consideration under the prior approval regime.

Context of site, design and external spaces / Impact on Conservation Area

- 8.6 The application does not propose any alteration to the existing front elevation and changes to signage would be subject to advertisement consent as appropriate. The proposed business is to be a gelato and dessert bar selling ready-made cakes, sandwiches, ice creams, shakes, waffles etc. The Design and Access Statement states that no hot food would be prepared on the premises. As a consequence of the type of food to be sold by the business there would be no requirement to install ventilation/extraction equipment and so no plant and flues would be required for the operation of the business.
- 8.7 As there are no external or internal works proposed the proposed change of use would have no impact on the character and appearance of the Mill Road Conservation Area. The proposal is therefore compliant with Cambridge Local Plan (2018) policies 55, 56, and 61.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.8 The application form states that the hours of opening would be from 8.30am in the morning until 10pm in the evening, Monday to Saturday. For Sundays/Bank Holidays it is proposed to open from 10 am until 6pm. The Environmental Health Officer is happy with these proposed hours and there is unlikely to be any adverse impact on the amenity of flats above the commercial unit and other nearby residential properties.
- 8.9 The Environmental Health Officer originally raised concerns regarding noise disturbance to the flats above. In response, the applicant has proposed to install a ceiling lining in order to reduce sound transference between the ground and upper floors. This is considered acceptable and a condition requiring this to be installed prior to commencement of the use has been recommended.
- 8.10 The proposal adequately respects the residential amenity of its neighbours, and the constraints of the site and it is compliant with Cambridge Local Plan (2018) policy 35 and 72.

Third Party Representations

- 8.11 Objection to the application on the grounds that there has been a significant increase in the number of food premises being established and a disappearance of retail units resulting in a lack of retail units in Mill Road. **Officer Response:** The proposal accords with Part d of Policy 72 which requires that a minimum of 55% of units remain as shops.
- 8.12 There is no mechanism for controlling the type of A3 use, resulting in unfair distribution of competition and a proliferation of 'fast-food' businesses. **Officer Response:** The proposal accords with Part d of Policy 72 which requires that a minimum of 55% of units remain as shops. It is outside the remit of planning control to consider the type of A3 use.
- 8.13 Inadequate consultation. **Officer Response:** The correct statutory notification and consultation has been undertaken for this application.

9.0 CONCLUSION

- 9.1 The third party representations relate to the loss of retail units and an increase in fast food businesses in the area. The proposal however accords with Part d of Policy 72 which requires that a minimum of 55% of units in the area remain as shops.
- 9.2 With regard to impact on residential amenity the Environmental Health Officer 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 91 of the Town and Country Planning Act 1990 (as amended by 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. The proposed Gypliner Universal (C06) ceiling lining system as detailed in the email from Rob Clark dated 1st October 2019 shall be installed prior to the commencement of the use, hereby permitted, and shall be retained in accordance with these details thereafter.

Reason: To protect the amenity and quality of life of the residents in the residential flat above. (Cambridge Local Plan, Policy 35)

4. The use hereby permitted shall only be open to customers between the hours of 08:30 and 22:00 Monday to Saturday and 08:30 and 18:00 on Sundays and Bank Holidays.

Reason: To protect the amenity of adjoining and nearby residential properties. (Cambridge Local Plan, Policy 35)

5. Collections from and deliveries to the premises shall only be made between the hours of 0700 and 2100 Monday to Saturday and 0900 and 1700 on Sundays and Bank/Public Holidays.

Reason: To protect the amenity of adjoining and nearby residential properties. (Cambridge Local Plan, Policy 35)