

<b>Application Number</b>	20/04103/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	5th October 2020	<b>Officer</b>	Sophia Dudding
<b>Target Date</b>	9th December 2020		
<b>Ward</b>	Coleridge		
<b>Site</b>	1 Adkins Corner, Perne Road		
<b>Proposal</b>	Change of use of unit 3 from A1/A2 (retail /financial & professional use) to sui generis (hot food takeaway/restaurant) and installation of external extract duct and AC unit.		
<b>Applicant</b>	Steve Cullum 32 Athol Street Douglas IM1 1JB Isle Man		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> <li>• The principle of the change of use is acceptable;</li> <li>• The proposal would safeguard the residential amenity of its neighbours</li> </ul>
RECOMMENDATION	APPROVAL

**1.0 SITE DESCRIPTION/AREA CONTEXT**

1.1 The application site is a ground floor commercial premises Unit 3 which is approx. 64m<sup>2</sup> located on the north end of Adkins Corner which is a ‘L’ shaped three storey building situated at the junction between Cherry Hinton Road and Perne Road. Co-op supermarket and Kwik Fit are located on the south side of the Adkins Corner. The upper floors of Adkins Corner are residential. The application site falls within a neighbourhood centre. The surrounding area is mainly residential.

## **2.0 THE PROPOSAL**

- 2.1 Full planning permission is sought for a change of use from A1/A2 (retail / financial and professional use) to sui generis (hot food takeaway / restaurant) and installation of an external extract and AC unit.
- 2.2 Due to changes in the Use Classes Order, which took effect from 01 September 2020, the original class A1/A2 use is now class E.
- 2.3 The proposed use would be a pizza takeaway / restaurant which would involve the installation of an external extract flue and one AC unit on the north elevation of the building.
- 2.4 As the proposal is seeking a mixed takeaway / restaurant use planning permission is required as the use is deemed sui generis. Under the revised Use Classes Order, permission would not be required for a change of use to a restaurant only. This should be borne in mind when considering the merits of the proposal.
- 2.5 The application is accompanied by the following supporting information:
1. Design and access statement
  2. Drawings
  3. Acoustic assessment / noise assessment technical information (which has been subject to further Environmental Health advice)

## **3.0 SITE HISTORY**

- 3.1 Adkins Corner has an extensive planning history, none of which is relevant the application site unit 3.

## **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, 3 35 55 56 58 72

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

Central Government Guidance	National Planning Policy Framework 2019 National Planning Policy Framework – Planning Practice Guidance from 3 March 2014 onwards Circular 11/95 (Annex A)
Material Considerations	<u>City Wide Guidance</u> Cambridge City Council Waste and Recycling Guide: For Developers.

## 6.0 CONSULTATIONS

### Environment Health

#### *First comments*

6.1 Additional information is required as follows:

- Details of suitability of existing separating partition between ground and first floor. The proposed COU is likely to result in increased noise levels when compared with the existing proposed use. The applicant needs to demonstrate that the proposed COU will not impact on the amenity of the residential dwellings above.
- Confirmation of location of the external seating area and assessment of significance of impacts (in terms of noise and disturbance) of use of the external seating area on nearby residents
- Clarification on whether it is the intention to provide a delivery service and if so details of takeaway dispatch operations if intended (e.g. types of vehicles, anticipated numbers, where parked, noise management plan etc)

### ***Second comments***

- 6.2 Additional information is required to address the key issue of internal noise transmission from the ground floor to the residential above.

The constraints are appreciated that the applicant is working with at the current time as it will not be possible to undertake any form of assessment during lockdown. Given that the site was recently refurbished it may be possible to make an informed decision based on knowledge of the building structure from the recent refurbishment. Some consideration of internal noise transmission between the ground floor level (co-op) and residential would have been integrated into the refurbishment. If the applicant could find out what if anything was required to protect the amenity of residential above and whether this was applied to the full structure or only where the residential was located above the co-op site that may enable us to establish if the noise insulation of the structure is adequate for the proposed COU.

## ***Final comments***

6.3 Support the application subject to the following conditions:

- Fume Filtration/ extraction
- Plant noise assessment
- Hours of use
- Hours of delivery
- Noise management plan

## **Highway Authority**

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:

- 3 Perne Road
- 10 Perne Road
- 12 Perne Road

7.2 The representations can be summarised as follows:

- Noise, odour disturbance to the surrounding residential units;
- Anti-social behaviours linked to hot food takeaways;
- Noise disturbance from AC unit;
- Reduced privacy to No.3 Perne Road
- Late night disturbance
- Agree with concerns raised by the Environment Health Officer and should be addressed by more technical evidence.

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 the main issues are as follows:

1. Principle of development
2. Context of site, design and external spaces
3. Residential amenity
4. Other matters
5. Third party representations

### **Principle of the development**

8.2 The application site falls within a neighbourhood centre. As the proposal is for a change of use from A1/A2 use to sui generis including restaurant and takeaway, it is subject to an assessment against policy 72.

8.3 Policy 72 states proposals for change of use from A1 to other centre uses, which include the use for restaurant / takeaway uses, are permitted provided:

- a. they complement the retail function and maintain or add to the vitality, viability and diversity of the centre;
- b. provision is made for an active frontage, such as a window display, which is in keeping with the character of the shopping area; and
- c. 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;

and in local and neighbourhood centres:

- d. an appropriate mix and balance of use is retained which will provide for the day-to-day needs of local people.

8.4 Due to the nature of the proposal, which would be for a hot food restaurant / takeaway, it would open to the public and help maintain the vitality of the neighbourhood centre. It is a use(s) which are listed in the policy as suitable. The frontage of the premises is designed with a large glass pane to be able to accommodate an active fa ade such as a window display and signage. Criterion (a) and (b) are satisfied. The main neighbourhood centre use is dominated by the Co-Op nearby

which is a larger unit and which would remain. The proposal would not therefore compromise the day-to-day needs of local people. Criterion (d) is therefore satisfied. In any event, the recent change to the Use Classes Order does not allow for as much protection of A1 / A2 uses as before and as set out above, the Council could not resist a change of use of the unit to a restaurant only as this use now falls within class E. As such, the principle of the development is considered acceptable subject to the assessment of criterion (c) (amenity impact) below.

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

- 8.5 The proposal would retain the existing front façade of the premises and would be read as a 'shopfront' in keeping with the character of shopping area. The proposed external extractor flue, terminating at a high point above the building and the AC unit would be installed on the north elevation, which would only receive limited public view. The proposed alterations to the exterior appearance of the premises are minor and the proposal is considered acceptable in design terms and is compliant with Cambridge Local Plan (2018) policies 55, 56, 58.

### **Residential Amenity**

Impact on amenity of neighbouring occupiers

- 8.6 The Environment Health Officer (EHO) raised several concerns about the proposal in her first comments dated 18 November 2020 which can be summarised as follows:
- the proposed change of use is likely to result increased noise levels than the existing use to the first floor level residential accommodation;
  - an external seating area is mentioned within the submission but does not appear on any submitted drawings. However, it is considered that such a seating area is inappropriate given its proximity to adjacent residential properties;
  - additional information is required for the takeaway delivery service to assess if relevant control would be required for the delivery service through conditions.

- 8.7 To address the EHO's main concerns in relation to the potential noise impact on the first floor residential units, two separate acoustic assessments have been submitted by the applicant which demonstrate that the separating partition between the ground floor and the first floor can provide suitable sound reduction for the change of use (protecting the residents above from any undue noise impact). In addition, the applicant has also confirmed a suspended ceiling would be installed to further reduce sound transmission. Given the premises would be only for a small restaurant, the EHO is satisfied with the information submitted and considers the outstanding concern in relation to the impact on the first floor residential accommodation is addressed.
- 8.8 An external seating area for the proposal is mentioned in the submitted Design and Access Statement, however, is not shown in the submitted drawings. In order to address the EHO's concerns, the applicant has confirmed that an external seating area does not form part of their proposal. The potential for an external seating area is therefore conditioned out.
- 8.9 The applicant also suggests a future delivery service. The EHO recommends a condition for a noise management plan to control the operational noise on site to avoid any significant harm to the neighbours.
- 8.10 The EHO also raised concerns in relation to the impact on the residential amenity of adjacent neighbours from the plant noise, odour and opening hours of the proposal. Neighbour No.10 Perne Road also objects to the proposal based on the noise disturbance from the AC unit to his property. The applicant has submitted revised drawings to relocate the AC unit to an enclosed bin storage area to reduce the noise transmitted to No.10. Given a condition of plant noise would also be attached to the permission to control the noise disturbance from the proposed plant to the adjacent neighbours, the proposal is considered not to give rise significant noise disturbance to the adjacent neighbor No.10.
- 8.11 The applicant has agreed to change the proposed opening hours in accordance with the EHO's suggestion. The extraction of odour would be controlled by a condition to require details of the extraction/ filtration equipment. The flue is shown as terminating at a high point on the building.

8.12 In summary, subject to conditions suggested by the EHO, the proposal is considered to adequately respect the residential amenity of its neighbours and the constraints of the site and is compliant with Cambridge Local Plan (2018) policy 35.

### Other matters

8.13 The proposed floor plans show the bin storage would be arranged at the back of the premises which is considered acceptable as it would provide enough refuse storage space and convenient access for refuse collection.

8.14 The site is located within a convenient location and the business would mainly attract people locally travelling by foot / cycle. There is ample space to park nearby in the neighbourhood centre car park. As such, it is considered that the proposal would not give rise to any adverse impact on the highway safety of the area.

### Third Party Representations

8.15 The objections raised by neighbours would be respectively addressed in the below table:

<ul style="list-style-type: none"> <li>Noise, odour disturbance to the surrounding residential units;</li> </ul>	<p>This has been addressed in the section 8.6 -8.13. All conditions suggested by the EHO in section 6.3 would be attached to the permission to avoid significant noise and odour disturbance to adjacent neighbours</p>
<ul style="list-style-type: none"> <li>Anti-social behaviours linked to hot food takeaways;</li> </ul>	<p>This is not a city centre location and anti-social behaviour is unlikely and could if it arose be dealt with through other legislation available to the police if necessary. In addition, the opening hours of the premises would be restricted by condition of hours of use to avoid late night disturbance.</p>
<ul style="list-style-type: none"> <li>Noise disturbance from AC unit;</li> </ul>	<p>This is addressed in section 8.11.</p>

<ul style="list-style-type: none"> <li>• Reduced privacy to No.3 Perne Road</li> </ul>	<p>The premises is situated across from No.3 Perne Road with a distance approx. 28m to the property. The proposal would not change the front arrangement of the existing premises and the outlook from the premises would be mainly towards Perne Road and would not give rise to increased privacy disturbance than the existing situation to No.3.</p>
<ul style="list-style-type: none"> <li>• Late night disturbance</li> </ul>	<p>Conditions of hours of use and delivery would sufficiently address the problem.</p>
<ul style="list-style-type: none"> <li>• Agree with concerns raised by the Environment Health Officer and should be addressed by more technical evidences.</li> </ul>	<p>This has been addressed in section 8.8-8.10</p>

## 9.0 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. Prior to the use of the premises as a restaurant / take-away, details of equipment for the purpose of extraction and filtration of odours shall be submitted to and approved in writing by the local planning authority. The approved extraction/filtration scheme shall be installed before the use hereby permitted is commenced and shall thereafter be retained as such.

Reason: To protect the amenity of nearby properties.  
(Cambridge Local Plan 2018 policy 35)

4. No operational plant, machinery or equipment both internal and external shall be installed until a noise assessment and any noise insulation / mitigation scheme as required to mitigate and reduce to a minimum potential adverse impacts has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out as approved and retained as such.

Reason: To protect the amenity of nearby properties.  
(Cambridge Local Plan 2018 policy 35)

5. The use hereby permitted, shall only be open to customers between the hours of 1200 and 2300 Monday to Saturday and 1200 and 2200 on Sundays and Bank Holidays.

Reason: To protect the amenity of properties from noise.  
(National Planning Policy Framework, Feb 2019 - paragraph 180 a) and b) and Cambridge Local Plan 2018 - Policy 35: Protection of human health and quality of life from noise and vibration)

6. There shall be no takeaway deliveries dispatched from premises outside the following hours: 1200-2300 Monday to Saturday and 1200-2200 on Sundays and Bank Holidays.

Reason: To protect the amenity of properties from noise.  
(National Planning Policy Framework, Feb 2019 - paragraph 180 a) and b) and Cambridge Local Plan 2018 - Policy 35: Protection of human health and quality of life from noise and vibration)

7. Prior to the operation of the premises as approved, the applicant shall provide a detailed Noise Management Plan (NMP) for approval by the Local Planning Authority. The NMP shall include details on (but not be limited to);
- o management and control of noise from internal areas,
  - o management and control of people accessing / egressing the premises,
  - o Number, type and location of delivery vehicles to be used
  - o Management of delivery driver behaviour e.g. no idling, no use of horns etc.
  - o Complaints procedures and details on reviewing and updating the NMP when necessary.

The NMP shall be implemented and retained as approved thereafter.

Reason: To protect the amenity of adjoining and adjacent residential premises (Cambridge Local Plan 2018 Policy 35)

8. No external seating area shall be provided in association with the permitted use.

Reason: In order to safeguard residential amenity (Cambridge Local Plan policy 35)

**INFORMATIVE:** To satisfy standard condition C62 (Noise Insulation), the rating level (in accordance with BS4142:2014) from all plant, equipment and vents etc (collectively) associated with this application should be less than or equal to the existing background level (L90) at the boundary of the premises subject to this application and having regard to noise sensitive premises. Tonal/impulsive noise frequencies should be eliminated or at least considered in any assessment and should carry an additional correction in accordance with BS4142:2014. This is to guard against any creeping background noise in the area and prevent unreasonable noise disturbance to other premises. This requirement applies both during the day (0700 to 2300 hrs over any one hour period) and night time (2300 to 0700 hrs over any one 15 minute period).

It is recommended that the agent/applicant submits a noise prediction survey/report in accordance with the principles of BS4142: 2014 "Methods for rating and assessing industrial and commercial sound" or similar, concerning the effects on amenity rather than likelihood for complaints. Noise levels shall be predicted at the boundary having regard to neighbouring premises.

It is important to note that a full BS4142:2014 assessment is not required, only certain aspects to be incorporated into a noise assessment as described within this informative.

Such a survey / report should include: a large scale plan of the site in relation to neighbouring premises; noise sources and measurement / prediction points marked on plan; a list of noise sources; details of proposed noise sources / type of plant such as: number, location, sound power levels, noise frequency spectrums, noise directionality of plant, noise levels from duct intake or discharge points; details of noise mitigation measures (attenuation details of any intended enclosures, silencers or barriers); description of full noise calculation procedures; noise levels at a representative sample of noise sensitive locations and hours of operation.

Any report shall include raw measurement data so that conclusions may be thoroughly evaluated and calculations checked.

**INFORMATIVE:** A premises licence may be required for this development in addition to any planning permission. A premises licence under the Licensing Act 2003 may be required to authorise:

- The supply of alcohol
- Regulated entertainment e.g.
- Music (Including bands, DJ's and juke boxes)
- Dancing
- The performing of plays
- Boxing or wrestling
- The showing of films
- Late Night Refreshment (The supply of hot food or drink between 23:00-05:00)

A separate licence may be required for activities involving gambling including poker and gaming machines.

The applicant is advised to contact The Licensing Team of Environmental Health at Cambridge City Council on telephone number (01223) 457899 or email [Licensing@cambridge.gov.uk](mailto:Licensing@cambridge.gov.uk) for further information.

**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.

**INFORMATIVE:** As the premises is intended to be run as a business The applicant is reminded of their duty under the Construction (Design and Management) Regulations 2007 to ensure that all significant risks related to the design and operation of the premises are minimised. Contact the Commercial Team at Cambridge City Council on telephone number (01223) 457890 for further information.

**INFORMATIVE:** To satisfy the odour/fume filtration/extraction condition, details shall be provided in accordance with Appendix 2 and 3 of EMAQ's "Control of Odour and Noise from Commercial Kitchen Exhaust Systems (update to the 2004 report prepared by NETCEN for DEFRA)" dated September 2018.