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| Planning Committee Date | 2 October 2024 |
| Report to | Cambridge City Council Planning Committee |
| Lead Officer | Joint Director of Planning and Economic Development |
| Reference | 24/02473/FUL |
| Site | 232 Mill Road |
| Ward / Parish | Romsey |
| Proposal | Change of use from (dry cleaner) Use Class Sui Generis to (hot food takeaway) Use Class Sui Generis |
| Applicant | M Khawaja |
| Presenting Officer | Grace Cherrington |
| Reason Reported to Committee | Third party representations |
| Member Site Visit Date | N/A |
| Key Issues | 1. Highway Safety 2. Amenity |
| Recommendation | APPROVE subject to conditions |

1.0 Executive Summary

- 1.1 The application seeks planning permission for the change of use from (dry cleaner) Use Class sui generis to (hot food takeaway) sui generis.
- 1.2 The application is proposing the change of use of the building with limited external alterations. Information has been provided in support of the application, and reviewed by Environmental Health Officers, to ensure that the extraction system would not lead to any significant harm to the adjacent premises.
- 1.3 The application has been reviewed by the Local Highways Authority who have raised no concerns regarding highway safety. The application is not proposing any alterations to the existing access or vehicle arrangements.
- 1.4 Officers recommend that the Planning Committee approve the application subject to conditions.

2.0 Site Description and Context

| | | | |
|-------------------------|---|---|---|
| Conservation Area | X | Local Neighbourhood and District Centre | X |
| Controlled Parking Zone | X | | |

*X indicates relevance

- 2.1 232 Mill Road, set to the southern side of Mill Road, is part of a terrace of shops units at ground floor with residential dwellings at first floor.
- 2.2 The site falls within the Mill Road Conservation area, the Mill Road Opportunity Area and the Mill Road District Area.

3.0 The Proposal

- 3.1 The application seeks planning permission for the change of use from (dry cleaner) Use Class sui generis to (hot food takeaway) sui generis.

4.0 Relevant Site History

| Reference | Description | Outcome |
|-----------|---|-----------|
| C/93/0679 | Alterations to existing shop front | Permitted |
| C/80/0382 | Change of use from electrical retail to dry cleaners. | Permitted |

5.0 Policy

5.1 National

National Planning Policy Framework 2023

National Planning Practice Guidance

National Design Guide 2021

Environment Act 2021

Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Conservation of Habitats and Species Regulations 2017

Equalities Act 2010

Planning and Compulsory Purchase Act 2004

Local Transport Note 1/20 (LTN 1/20) Cycle Infrastructure Design

Circular 11/95 (Conditions, Annex A)

5.2 Cambridge Local Plan 2018

Policy 1: The presumption in favour of sustainable development

Policy 2: Spatial strategy for the location of employment development

Policy 24: Mill Road Opportunity Area

Policy 28: Sustainable design and construction, and water use

Policy 29: Renewable and low carbon energy generation

Policy 35: Human health and quality of life

Policy 36: Air quality, odour and dust

Policy 55: Responding to context

Policy 56: Creating successful places

Policy 58: Altering and extending existing buildings

Policy 61: Conservation and enhancement of historic environment

Policy 64: Shopfronts, signage and shop security measures

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

Policy 80: Supporting sustainable access to development

Policy 81: Mitigating the transport impact of development

Policy 82: Parking management

5.3 Supplementary Planning Documents

Biodiversity SPD – Adopted February 2022

Sustainable Design and Construction SPD – Adopted January 2020

Cambridgeshire Flood and Water SPD – Adopted November 2016

5.4 Other Guidance

Mill Road conservation area

6.0 Consultations

6.1 County Highways Development Management – No Objection

6.2 No objection. A condition is recommended regarding construction and delivery vehicles hours.

6.3 A note has been attached stating that loading restrictions to the front of the property on Mill Road prohibit loading and unloading at any time.

6.4 Conservation Team – No Objection

6.5 The application has been assessed and it is considered that the proposal would not give rise to any harm to any heritage assets.

6.6 Environmental Health – No Objection

6.7 A condition is recommended regarding kitchen equipment/extract compliance to protect the amenity of adjoining/nearby properties in regard to policy 35.

7.0 Third Party Representations

7.1 3 representations have been received.

7.2 Those in objection have raised the following issues:

- Residential amenity impact (noise and disturbance, litter)
- Highway safety
- Car parking provision
- Proposed use – want community shops
- Loss of service (Dry Cleaning)
- Publication
- Local Authority should be committed to health food choices.
- Litter

7.3 The above representations are a summary of the comments that have been received. Full details of the representations are available on the Council's website.

8.0 Assessment

8.1 Principle of Development

8.2 The provision of employment development is supported in the Cambridge Local Plan (2018). Policy 2 states that employment development will be focuses on the urban area, Areas of Major Change, Opportunity Areas and the city centre.

8.3 The application site falls within the Mill Road District Centre. Policy 72 outlines the uses acceptable in Local, District and Neighbourhood Centres and permits the change of use to centre uses provided the vitality, viability and diversity of the centre is maintained or enhanced. Policy 72 continues to state inappropriate uses in designated centres at ground floor, which

comprise former B1 (office), B2 (light industrial), B8 (storage and distribution), C2 (residential institutions), C3 (dwellinghouses), C4 (houses of multiple occupation) and other 'sui generis' uses.

8.4 The application is proposing to change the use from a dry cleaner (use class Sui Generis) to a take away (Use Class Sui Generis). Therefore, the change of use of the property is considered acceptable and would not to harm the vitality of viability of the wider district centre. Given the close proximity of the building to multiple residential uses the proposal would need to accord to other Policies in the Local Plan assessed below.

8.5 This section of Mill Road is characterised by a mix of uses, with active frontages including a restaurant to the west and a betting shop to the east. Beyond this there is a further range of retail units. The proposed use would retain the active frontage in this location and support a mix of uses along Hills Road, adding to the thriving city centre.

8.6 Subsequently, the principle of the development is acceptable and in accordance with policies 2 and 72 of the Cambridge Local Plan 2018.

8.7 Design, Layout, Scale and Landscaping

8.8 Policies 55, 56, 57, 58 and 59 seek to ensure that development responds appropriately to its context, is of a high quality, reflects or successfully contrasts with existing building forms and materials and includes appropriate landscaping and boundary treatment.

8.9 The application seeks planning permission for a change of use of the existing dry cleaners (use class Sui Generis) to a takeaway use (use class Sui generis) and minor alterations.

8.10 The change of use would comprise minimal changes to the shopfront, including replacement of the signage. No details have been provided regarding the proposed signage and separate advertisement consent would be required to be submitted. The proposed changes would retain the shopfront features that are considered to be important in terms of its character and as such the proposed frontage is considered to be respect the existing built form and surrounding area.

8.11 Internally a couple of internal partitions are proposed to be removed to reconfigure the internal alterations of the shop unit. These would not impact the shop unit. There are no alterations proposed to the rear elevation.

8.12 Overall, the proposed development is compliant with Cambridge Local Plan (2018) policies 55, 56 and 58 and the NPPF.

8.13 Heritage Assets

8.14 The application falls with the Mill Road Conservation Area.

- 8.15 Section 72 provides that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 8.16 Para. 205 of the NPPF set out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be. Any harm to, or loss of, the significant of a heritage asset should require clear and convincing justification.
- 8.17 Policy 61 of the Cambridge Local Plan (2018) requires development to preserve or enhance the significance of heritage assets, their setting and the wider townscape, including views into, within and out of the conservation area. Policy 62 seeks the retention of local heritage assets and where permission is required, proposals will be permitted where they retain the significance, appearance, character or setting of a local heritage asset.
- 8.18 The Conservation Officer has been formally consulted on the application and has raised no objection to the proposal. As such, the proposal is considered to maintain the significance of the Conservation Area.
- 8.19 It is considered that the proposal would not harm the character and appearance of the Conservation Area. The proposal would not give rise to any harmful impact on the identified heritage assets and is compliant with the provisions of the Planning (LBCA) Act 1990, the NPPF and Local Plan policies 60.

8.20 Highway Safety and Transport Impacts

- 8.21 Policy 80 supports developments where access via walking, cycling and public transport are prioritised and is accessible for all. Policy 81 states that developments will only be permitted where they do not have an unacceptable transport impact.
- 8.22 Para. 115 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.23 The application would not alter access or parking arrangements as part of the development. It is in a sustainable location within the Mill Road District Centre which is accessible for cycles, pedestrian and those using public transport. The Local Highways Authority have no objection to the application and therefore it is considered to be acceptable.
- 8.24 Given that there is a restriction on parking on Mill Road a condition has been recommended restricting construction or delivery vehicles in excess of 3.5 tonnes to service the site between the hours of 09:30 and 15:30 which is considered necessary and reasonable given the site location.

8.25 Third party comments have been received regarding the delivery of goods to the shop. This has not been raised as a concern by the Local Highways Authority, however, an informative is recommended setting out that deliveries cannot be made on Mill Road.

8.26 Comments have been received regarding the increase in collection vehicles parking on the street and pavements. There is no on street parking on Mill Road and therefore drivers picking up food are required to follow the Highway markings. Officers cannot refuse an application based on these impacts as they are outside of the remit of Planning Control.

8.27 Subject to conditions, the proposal accords with the objectives of policy 80 and 81 of the Local Plan and is compliant with NPPF advice.

8.28 Cycle and Car Parking Provision

8.29 The application would not alter access nor parking arrangements as part of the application. It is in a sustainable location within a District Centre which is accessible for cycles, pedestrians and those using public transport. The highways Authority have not objection to the application and therefore it is considered to be acceptable.

8.30 Subject to conditions, the proposal is considered to accord with policy 82 of the Local Plan and the Greater Cambridge Sustainable Design and Construction SPD.

8.31 Amenity

8.32 Policy 35 and 58 seek to preserve the amenity of neighbouring and / or future occupiers in terms of noise and disturbance, overshadowing, overlooking or overbearing and through providing high quality internal and external spaces.

8.33 The proposal seeks to change the use of the building to a takeaway. As such, there is minimal external work proposed and it is not considered and as such have the potential to give rise to any loss of privacy, loss of light or overbearing impact. The change of use however, could lead to additional noise and odour implications beyond the existing use as a Dry Cleaners. Whilst the adjacent buildings are occupied by commercial users at ground floor level there are residential occupants at first floor level both above the proposal site and at the surrounding buildings.

8.34 Policy 35 guards against developments leading to significant adverse impacts on health and quality of life from noise and disturbance. Noise and disturbance during construction would be minimized through conditions restricting construction hours and collection hours to protect the amenity of future occupiers. These conditions are considered reasonable and necessary to impose.

- 8.35 The Environmental Health Officer has been formally consulted on the application and does not object to the proposed change of use.
- 8.36 The applicant has provided details within the Planning and Design Statement of extraction and ventilation. Subject to the kitchen equipment and extraction systems being installed, operated and maintained in accordance with this information it is not considered that the proposal would give rise to odour or noise impact to the neighbouring dwellings and commercial units from the proposed takeaway. A condition has been recommended by the Environmental Health Officers to ensure compliance with this information. Officers suggest this is a reasonable request given the risk of noise nuisance to the above occupier from the proposed use.
- 8.37 The opening times proposed by the applicant are 11am – 11pm Monday – Sunday. These are such that they would coincide with other uses in close proximity and therefore is not considered likely to give rise to any harmful level of noise impact on the nearby residential properties.
- 8.38 Third party comments regarding waste and litter are noted. Environmental Health have not raised any concerns with this front and there are other take-away and restaurant businesses in the vicinity. Additionally, there are two waste bins on Mill Road within a very short distance of the proposed takeaway. Given the location of these, and other premises in the area, it is not considered that the change of use would lead to a significant increase in litter in the area to warrant a refusal of the application.
- 8.39 An informative is recommended regarding the change in licensing for Environmental Health. This is considered necessary to ensure that the premises is licensed accordingly.
- 8.40 Summary
- 8.41 The proposal adequately respects the amenity of its neighbours and of future occupants and is considered that it is compliant with Cambridge Local Plan (2018) policies 35 and 58.
- 8.42 Third Party Representations**
- 8.43 The remaining third-party representations not addressed in the preceding paragraphs are summarised and responded to below:
- 8.44 There are objections to the proposal to an additional hot food takeaway use in the locality. Some of the objection is related to matters outside planning control, specifically competition for existing uses in the area, which is not a justifiable planning reason for refusal. While Officers understand concerns about the loss of a Dry Cleaners, there is another shop within close proximity on Mill Road and it is not possible to limit the use to a specific use. It is also not possible to ensure that a unit is for a community purpose.

8.45 Comments have been received regarding the publication within the newspaper being insufficient. In addition to the advertisement within the local newspaper, a site notice was put up in front of the unit and third parties were notified via letter. This level of consultation is in accordance with the Development Management Procedure Order and the Statement of Community Involvement.

8.46 Other Matters

8.47 Bins

8.48 Policy 57 requires refuse and recycling to be successfully integrated into proposals. The proposal would not alter the existing bin storage area to the rear of the unit. Given that the proposal is changing the use of the property and internal alterations it is considered that the existing situation would be satisfactory.

8.49 Planning Balance

8.50 Planning decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38[6] of the Planning and Compulsory Purchase Act 2004).

8.51 Summary of benefits

8.52 The proposed use is considered to be an acceptable use at ground floor within a District Centre. Sufficient information has been provided in support of the application to ensure that the proposal would not give rise to any harmful noise or odour impacts to the surrounding properties.

8.53 Summary of harm

8.54 As set out within the report above it is not considered that the change of use to a takeaway would give rise to any significant harm in regards to highway safety, environmental impacts or the character and appearance of the street scene or Conservation Area.

8.55 Conclusion

8.56 Having taken into account the provisions of the development plan, NPPF and NPPG guidance, the statutory requirements of section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, the views of statutory consultees and wider stakeholders, as well as all other material planning considerations, the proposed development is recommended for approval.

9.0 Recommendation

9.1 **Approve** subject to:

- The planning conditions as set out below with minor amendments to the conditions as drafted delegated to officers.

10.0 Planning 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.

Plans to be listed:

Location Plan

201 – Proposed Plan and Elevation(1)

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 use and purchase of takeaway food from within the restaurant, shall not be operated outside of the following hours:

Monday to Sunday 11:00 - 23:00

Reason - To protect the amenity of surrounding occupiers in accordance with policies 35, 56 and 58 of Cambridge Local Plan 2018.

4. The kitchen equipment and extract system shall be installed, operated and maintained in accordance with the extraction and ventilation details contained within the submitted document "Change from Class E (dry cleaner) to Sui Generis (hot food takeaway), 232 Mill Road, Cambridge, CB1 3NF; Planning and Design Statement including Extraction and Ventilation Details" (prepared by Studio Charette).

The extract system shall be maintained and retained thereafter.

Reason: To protect the amenity of nearby / adjoining properties (Cambridge Local Plan 2018 policy 35 - noise, and vibration and policy 36 - air quality, odour and dust).

5. Construction or delivery vehicles with a gross weight in excess of 3.5 tonnes shall only service the site between the hours of 09.30hrs -15.30hrs, Monday to Saturday.

Reason: in the interests of highway safety in accordance with Policy 81 of the Cambridge Local Plan 2018

11.0 Informatives

1. Use of the premises is currently Permitted as a Dry Cleaners (Permit reference 2007/52). Under the Pollution Prevention and Control Act (1999 Environmental Permitting (England and Wales) Regulations 2016), this Permit needs to be surrendered if the dry cleaning process will no longer be carried out on the premises. The applicant must still pay for the permit until the surrender of all of it.

A "Notification of Surrender" form can be found at the following link:

<https://www.cambridge.gov.uk/media/6929/part-b-permit-surrender-notice.pdf>

Permit fees must be paid by the applicant in full until the Permit is fully surrendered.

2. The loading restrictions to the front of the property on Mill Road prohibit loading and unloading at any time.