

PLANNING COMMITTEE – 23 SEPTEMBER 2021

PART I - DELEGATED

6. 21/1059/FUL – Internal alterations, the installation of a flue from a gas pizza oven on the side elevation and alterations to frontage to include new signage at SHOP 4 WALPOLE BUILDING, CHURCH STREET, RICKMANSWORTH, HERTFORDSHIRE, WD3 1BU

Parish: Batchworth Community Council. Ward: Rickmansworth Town

Expiry of Statutory Period: 30.07.2021 (EOT 30.09.2021) Case Officer: Freya Clewley

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: A Councillor is a neighbour of the application site.

1 Relevant Planning History

- 1.1 8/13A/80 – Internally illuminated projecting sign at Café Suisse – Permitted 14.07.1980.
- 1.2 00/00718/ADV – Erection of new illuminated sign – Permitted 24.07.2000.
- 1.3 00/0719/FUL – New shop front and extraction flue – Permitted 21.08.2000.
- 1.4 20/0865/FUL - Change of Use from a Restaurant (Use Class A3) to a Hot Food Takeaway (Use Class A5) with internal and external alterations – Withdrawn 11.08.2020.
- 1.5 20/1461/FUL - Change of Use from a Restaurant (Use Class A3) to a Hot Food Takeaway (Use Class A5) with internal and external alterations including installation of new extractor system and external flue and intake grill to rear, removal of existing extraction flue, and associated parking for motorcycles to rear – Refused 17.11.2020. Refused for the following reasons:

R1 The proposed development, by reason of the increased activity from people and delivery vehicles to the rear of the site, and the extended hours of activity would result in an intensification of the use to the rear and additional noise and disturbance to occupants of neighbouring residential properties which would be harmful to the amenities of the occupants of these properties. The proposed development would therefore be contrary to Policies CP1 and CP12 of the Local Plan Core Strategy (2011), and Policy DM9 of the Development Management Policies LDD (2013).

R2 The proposed use, by reason of its location within a primary shopping frontage and its use as a takeaway with an estimated average of 60-70% of orders being for home delivery, would not provide a use complementary to the primary shopping frontage and would not sustain the vitality and viability of Rickmansworth Town Centre. On this basis the proposed development would be contrary to Policies PSP1, CP1 and CP7 of the Local Plan Core Strategy (2011), and Policy SA4 of the Site Allocations LDD (2014).

R3 The proposed development, by reason of its use as a Hot Food Takeaway with public collection at the Church Street entrance, and the lack of dedicated car parking, would result in increased injudicious parking along Church Street, to the detriment of highway and pedestrian safety and the free flow of traffic on this busy local distributor road. The proposal would therefore be contrary to Policy CP10 of the Local Plan Core

Strategy (2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (2013).

R4 Insufficient and inadequate space is proposed for delivery vehicles to access the rear of the site, park outside, turn and leave the site and the limited space provided is not demonstrably useable. The insufficient space would result in injudicious parking, turning and delivery movements and an inability to safely and adequately access the application site, and would be detrimental to highway safety and the free flow of traffic in the area. The proposal would be contrary to Policy CP10 of the Local Plan Core Strategy (2011).

1.6 20/2390/ADV - Advertisement Consent: Installation of fascia and projecting sign with internally illuminated text and logos and illuminated window display – Withdrawn 16.11.2020.

1.7 21/1060/ADV - Advertisement Consent: Installation of new fascia sign and projecting sign – Permitted 16.07.2021.

2 Description of Application Site

2.1 This application relates to the ground floor commercial unit within a three storey mid terrace building located on the eastern side of Church Street, Rickmansworth, close to the junction with the High Street. The site is located within the Primary Shopping frontage and within the Rickmansworth Town Centre Conservation Area.

2.2 The existing unit has been in use as a restaurant (Use Class A3) for a number of years. The unit is currently vacant and has been for over 12 months.

2.3 The first floor accommodation is accessed via the steps to the rear of the host building and is in residential use.

3 Description of Proposed Development

3.1 This application seeks full planning permission for internal alterations, the installation of a flue from a gas pizza oven on the side elevation and alterations to the frontage to include new signage.

3.2 The proposal would include minor alterations to the bar area internally, the installation of an additional flue to the side of the building, adjacent to the existing flue, and the redecoration of the existing shopfront. The proposed flue would be painted red to match the existing brickwork. The proposed signage has been previously approved under application reference 21/1060/ADV.

3.3 Amended plans were sought and received to remove the originally proposed seating area to the front of the building on the pavement, and amend the signage such that it accords with the previously approved advertisement consent application reference 21/1060/ADV.

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Council: [No Objection]

Batchworth Community Council has no comment to make on this application.

4.1.2 Conservation Officer: [No Objection, subject to conditions]

The property is located in the Rickmansworth Conservation Area and adjacent to no. 7-9 Church Street which is a Grade II listed (list entry no. 1100873). Church Street forms part of the historic core of Rickmansworth.

There would be no objection to the internal alterations. Nor would there be an objection to the installation of a flue to the side elevation. Heritage advice pertaining to a previous similar scheme (ref: 20/1461/FUL) recommended that the flue should be painted to closely match the brickwork behind. This is also proposed within the scheme, which is considered to be a sympathetic approach.

The appearance of the shop front is to be retained as existing which is appropriate. However, there are some concerns regarding the proposed signage. Advice pertaining to a separate advertisement consent stated (ref: 21/1060/ADV):

'Further clarification is required regarding the materiality and colour of the proposed signage. There is always a preference for a traditional appearance to signage and shop fronts in a Conservation Area. Modern materials such as vinyl should be avoided, high quality and traditional materials such as timber hand painted signage would be of an enhancement. A like-for-like replacement of existing materials would be acceptable as this at least preserves the character and appearance of the Conservation Area. I would be unable to support the internally illuminated sign. There is a preference for an externally illuminated traditional hanging sign as this would better uphold the traditional character and appearance of the Conservation Area.

If further information and amended plans are provided which adhere to the above, it is unlikely that the application would raise an objection. Additional details of the lighting should also be provided.'

This advice remains relevant.

If the application is approved, it is recommended that the following condition (or similar) is applied:

- Details of the paint colour for the flue, including clear photographs of the existing brickwork, shall be submitted to and approved in writing by the local planning authority prior to its repainting.*

Following receipt of the Conservation Officer's comments, amended plans were sought and received detailing the materials of the signage. These details were found to be acceptable under the approved advertisement consent application reference 21/1060/ADV and the Conservation Officer has raised no objections to the amended plans.

4.1.3 National Grid: No response received.

4.1.4 Herts Archaeology: No response received.

4.1.5 Environmental Health: [No objection, subject to conditions]

It appears that the intention is to use part of the existing extract system, some of which is contained in the first floor flat. It is therefore recommended that a noise impact assessment is undertaken, following the principles of BS:4142 which considers the potential impact on the residential property. In addition, the applicant should consider how the extract system would be accessed if it passes through the first floor flat, and details as to what access is permitted should also be submitted and approved by the LPA.

These details could be conditioned, and all details should be submitted to, and approved by the LPA prior to the first use. It is important that the impact on the flat is mitigated

sufficiently as the extract should not result in an unreasonable interference with the use/enjoyment of the residential flat above.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 29

4.2.2 No of responses received: 0

4.2.3 Site Notice: Expired: 08.07.2021. Press Notice: Expired: 09.07.2021.

5 Reason for Delay

5.1 Amended plans required and Committee cycle.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2021 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP1, CP1, CP6, CP7, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM3, DM6, DM9, DM10, DM13 and Appendices 4 and 5.

The Site Allocations Local Development Document (SALDD) was adopted on 25 November 2014 having been through a full public participation process and Examination in Public. Policy SA4 is relevant.

6.3 Other

The Rickmansworth Town Conservation Area Appraisal and Character Assessment (adopted August 1993).

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 The current application is not seeking to change the use of the existing unit, and the unit would remain a restaurant (Use Class E), with a small amount of ancillary takeaway use (Sui Generis). As the use of the unit would remain the same, this has not been considered as part of the current application.

7.2 Impact on Character and Street Scene

7.2.1 Policy CP1 of the Core Strategy seeks to support buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy relates to design and states that in seeking a high standard of design, the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'.

7.2.2 Policy DM3 of the Development Management Policies LDD stipulates that within Conservation Areas development will only be permitted if the proposal retains and restores, where relevant, traditional features such as shop fronts, walls, railings, paved surfaces and street furniture, and improves the condition of structures worthy of retention.

7.2.3 The proposed internal alterations would not be visible from the streetscene of Church Street, thus would not appear prominent or result in harm to the character and appearance of the Conservation Area. The proposed redecoration of the shopfront would be visible from the streetscene and Conservation Area, as would the proposed additional flue. The shopfront would remain the same in appearance, and a condition would require details of the proposed paint to be used to redecorate the shopfront to be submitted to and approved by the LPA prior to the works taking place. As such, it is not considered that the proposed redecoration of the shopfront would appear prominent or result in any harm in terms of character. The applicant has outlined within the Design, Access and Heritage Statement, that the proposed flue would be painted red to match the existing flue and adjacent brickwork. The Conservation Officer has raised no objection to the proposal, subject to a condition to require details of the paint to be used for the flue, to be submitted to and approved by the LPA prior to the commencement of the installation of the flue.

7.2.4 In summary, it is not considered that the proposed development would result in harm to the Conservation Area, and the proposal is therefore considered acceptable in accordance with Policies CP1 and CP12 of the Core Strategy, Policy DM3 of the Development Management Policies document and the Rickmansworth Town Conservation Area Appraisal (adopted August 1993).

7.3 Impact on amenity of neighbours

7.3.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Paragraph (a) of Policy DM9 of the DMP LDD sets out that the Council will refuse planning permission for development which would give rise

to disturbance, noise, light, smell, fumes and vibrations unless appropriate mitigation measures are in place. Paragraph (d) in regards to noise pollution sets out that planning permission will not be granted where development has an unacceptable impact on the indoor or outdoor acoustic environment of existing or planned development.

- 7.3.2 The application site is located adjacent to residential properties. The first floor accommodation above the unit is also currently in residential use. The commercial unit would remain the same use as previous, and the layout in terms of capacity of the unit would not be altered as part of the proposed development. Given that no change of use is proposed, it would not be reasonable to attach a condition to restrict opening hours, however previous restrictions would still apply to the unit.
- 7.3.3 The proposal would include the installation of a new extractor system, and the Environmental Health Officer has been consulted on the current application and has confirmed that additional information in the form of a noise impact assessment would be required to be undertaken, submitted and approved by the LPA prior to the first use of the extractor/flue hereby permitted to ensure that the proposal would not result in any harm to neighbouring amenity by virtue of resultant noise or disturbance.
- 7.3.4 In summary, subject to conditions it is not considered that the proposed development would result in significant harm to neighbouring amenity so as to justify the refusal of planning permission. The proposal would therefore accord with Policy CP12 of the Core Strategy and Policy DM9 of the Development Management Policies LDD in this regard.

7.4 Wildlife and Biodiversity

- 7.4.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.4.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.4.3 The application has been submitted with a Biodiversity Checklist. The application relates to internal alterations and the installation of a flue and alterations to the shopfront. Given the scale and nature of the application, it is not considered that protected species would be affected.

7.5 Trees and Landscaping

- 7.5.1 Policy DM6 of the Development Management Policies LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 7.5.2 There are no trees within the application site or neighbouring properties that would be harmed by the proposed development.

7.6 Highways, Access and Parking

- 7.6.1 Policy DM13 of the Development Management Policies LDD requires development to make provision for parking in accordance with the parking standards set out at Appendix 5 of the Development Management Policies LDD.

7.6.2 The proposal would not result in a change in use, and would not alter the available floor area to serve the unit. Therefore, the proposal would not alter the existing parking requirements to serve the unit. There is an existing public car park to the rear of the building, and given the location of the application site within Rickmansworth Town Centre, it is considered that the proposal would therefore be acceptable in this regard.

7.7 Refuse and Recycling

7.7.1 Policy DM10 (Waste Management) of the DMLDD advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals.

7.7.2 The application site is an existing commercial premises and the scale and use of the premises would not be altered. Therefore it is considered that there would be adequate provision for the storage and recycling of waste, as this would not be altered from existing.

8 **Recommendation**

8.1 That PLANNING PERMISSION BE GRANTED subject to the following conditions:

C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC 001 (Location Plan), 073/AP_01 Rev A, 073/AP_02 Rev A, 073/AP_03 Rev A, 073/AP_04 Rev B, 073/AP_05, 073/S_01, 073/S_02, 073/S_03, 073/S_04 and 073/S_05.

Reason: For the avoidance of doubt, in the proper interests of planning, to safeguard the character and appearance of the Conservation Area, streetscene and wider area, to protect the residential amenities of the neighbouring properties and in accordance with Policies PSP1, CP1, CP6, CP7, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM3, DM6, DM9, DM10, DM13 and Appendices 4 and 5 of the Development Management Policies LDD (adopted July 2013), Policy SA4 of the Site Allocations LDD (adopted November 2014) and the Rickmansworth Town Conservation Area Appraisal (adopted August 1993).

C3 Prior to the installation of the extractor/flue hereby permitted, a Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Assessment shall include the noise attenuation measures to be incorporated with all extractors as shown on drawing number 073/AP_03 REV A. The approved details shall be implemented in its entirety prior to the extractors being brought into use with the noise attenuation measures retained thereafter at all times.

Reason: To ensure that neighbouring residential units are not adversely impacted from unacceptable noise levels and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

C4 Prior to the installation of the external flues, or any redecoration work, hereby permitted, details of the proposed paint colour for the flues, including clear photographs of the existing brickwork, and details of the proposed paint for the shopfront, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the flue and shopfront being constructed in inappropriate materials in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

- C5 The proposed unit shall be set up, used and operated only in accordance with the layout shown on approved plan number 073/AP_03 REV A.

Reason: To ensure that neighbouring residential units are not adversely impacted from unacceptable noise levels and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

8.2 **Informatives:**

- 11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.

- I3 The applicant is hereby advised to remove all site notices on or near the site that were displayed pursuant to the application.
- I4 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.