

## PLANNING COMMITTEE - 11 AUGUST 2022

### PART I - DELEGATED

9. **22/0740/FUL - Change of use of existing premises from A1 (shop), A3 (Restaurant and cafe) and A4 (drinking establishment) to Class E (Restaurant and cafe) and Sui Generis (drinking establishment) and extending opening hours at 7-9 CHURCH STREET, RICKMANSWORTH, HERTFORDSHIRE, WD3 1BX (DCES)**

Parish: Batchworth Community Council  
Expiry of Statutory Period: 27.07.2022

Ward: Rickmansworth Town  
Case Officer: Lauren Edwards-Clewley

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: The applicant is a Three Rivers District Councillor.

#### 1 Relevant Planning History

- 1.1 08/2006/FUL - Replace existing shop front bay window from 10 panes of glass to 8 panes with anti-bandit glass - 17.12.2008 – Approved.
- 1.2 08/2007/LBC - Listed Building Consent: Replacement front shop window - 17.12.2008 – Approved.
- 1.3 08/2188/RSP - Retrospective Application: Installation of three CCTV cameras (one to the front of 7 Church Street, one to the front of 9 Church Street and one to the rear) - 14.01.2009 – Approved.
- 1.4 09/0912/FUL - Single storey rear extension and new openings at No7; demolition of WC and shed within rear courtyard of No7; alterations to the shop front door; rationalization and removal of equipment and mock Tudor beams; replacement of UPVC door No9 and cladding to rear - 18.08.2009 - Approved.
- 1.5 09/0913/LBC - Listed Building Consent: Single storey rear extension and new openings at No.7; demolition of WC and shed within rear courtyard of No7; alterations to the shop front door; rationalization and removal of equipment and mock Tudor beams; replacement of UPVC door No9 and cladding to rear - 18.08.2009 - Approved.
- 1.6 09/1519/FUL - Change of use of an existing courtyard to an outside café space and the replacement of two windows to the rear of No. 7 Church Street – 30.11.2009 – Approved
- 1.7 09/1520/LBC - Listed Building Consent: Change of use of an existing courtyard to an outside cafe space and the replacement of two windows to the rear of No.7 Church Street – 30.11.2009 – Approved
- 1.8 18/1647/RSP- Part Retrospective: Demolish and rebuild chimney – Approved
- 1.9 19/1847/RSP - Retrospective: Change of use from Class A1/A3 (retail/cafe) to Class A1 (Retail) and Class A3/A4 (Wine Bar) and to operate between 08.00-00.00hrs- Permitted

#### 2 Description of Application Site

- 2.1 The application site includes a commercial unit set within a terrace row on the east side of Church Street. The application site includes the ground floor space forming No.7 and No.9 in addition to a rear courtyard. The first floor above No.9 also forms part of the existing unit. There is a residential flat above No.9 at first floor level which does not form part of the application site.

- 2.2 This grade II listed building (No. 7 and 9) was originally erected as a 16th century residential dwelling. The original 16th century structure was substantially extended in the 17th century, re-fronted in the early 18th century and extended further in the 19th and 20th centuries.
- 2.3 Currently the unit is used predominately as a restaurant and bar with only the rear kitchen section supporting the bakery. The front of No.7 which has previously been used for the sale of bakery items has already been changed into seating for use pursuant to the restaurant and bar. The bakery does not actively sell from the front of the unit but does provide some sales from the rear entrance on Talbot Road selling directly from the kitchen.
- 2.4 The application building is located within the Rickmansworth Town Centre Conservation Area.

### **3 Description of Proposed Development**

- 3.1 This application seeks full planning permission for the change of use of existing premises from A1 (shop), A3 (Restaurant and cafe) and A4 (drinking establishment) to Class E (Restaurant and cafe) and Sui Generis (drinking establishment) and extending opening hours.
- 3.2 For clarity use Class A1 (shop) and A3 (restaurant and café) are now both use Class E and A4 is now 'sui generis' within the new Use Class Order.
- 3.3 This application proposes that the existing bakery use (A1) would cease and the whole of the unit would operate as a restaurant and bar (mixed use Class E and sui generis).
- 3.4 Condition 3 pursuant to 19/1847RSP which allowed for the current use outlined:  
*The change of use to Class A1 (Retail) and Class A3/A4 (Wine Bar) hereby permitted shall not operate other than between the hours of 08:00 until 23:00 Sundays to Thursday (inclusive) and 10:00 until 23:30 Fridays and Saturdays.*
- 3.5 The application form outlines that the proposal also seeks to vary the above hours to 10:00 until 01:00 every day.

### **4 Consultation**

#### **4.1 Statutory Consultation**

- 4.1.1 Batchworth Community Council: [No objection]

*BCC has no objection to this application, however due to the historic nature of this property (16<sup>th</sup> century) we would ask the officers to make us aware of any plans they receive, and we would expect to be informed of any proposed internal changes.*

- 4.1.2 National Grid: No comments received
- 4.1.3 Environment Agency: No comments received
- 4.1.4 Conservation Officer: No formal comments received
- 4.1.5 Herts Archaeology: No comments received

#### **4.2 Public/Neighbour Consultation**

- 4.2.1 Number consulted: 9
- 4.2.2 No of responses received: 0
- 4.2.3 Site Notice: Expired 08.07.2022 Press notice: Expired 15.07.2022

## **5 Reason for Delay**

5.1 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, 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 and DM13 and Appendix 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.

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

### **6.3 Other**

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 Principle of Development**

7.1.1 Policy PSP1 of the Core Strategy (adopted October 2011) states that development in Rickmansworth will maintain and enhance the vitality and viability of the town centre by promoting a range of town centre uses including housing, employment, shopping, leisure and community uses. The application site is designated as a primary frontage within the Site Allocation LDD. Policy SA4 of the Site Allocations LDD stipulates that within identified Primary Frontages, the loss of class A1 retail uses will generally be resisted. Policy CP7 of the Core Strategy sets out that the hierarchy of retail centres and their established character and diversity will be maintained through protecting and enhancing the vitality and viability of the retail cores of the town and district centres by generally resisting the loss of Class A1 retail uses particularly within their Primary Frontages, promoting uses which are complementary to the Primary Frontages, taking account of the contribution of non-retail uses to the vitality and viability of centres, and protecting and enhancing local shops which cater for day to day needs.

7.1.2 The proposal now includes the total loss of A1 (retail). Whilst this is regrettable in the Town Centre the proposed development would maintain an active frontage supporting the overall vitality and viability of the unit within Rickmansworth. The Town Centre maintains a mix of uses including the retention of retail units. As such the loss of the existing small area of retail floorspace is not considered to compromise the objectives of the success of the Town Centre.

### **7.2 Impact on the character of the streetscene, Listed Building and Conservation Area.**

7.2.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness. Policy CP12 of the Core Strategy relates to design that states that in seeking a high standard of design, the Council will expect development proposals to 'have regard to local context and conserve or enhance the character, amenities and quality of an area' and 'conserve and enhance natural and heritage assets'. Policy DM3 requires development to preserve or enhance the character and appearance of the Conservation Area.

7.2.2 Policy DM3 of the Development Management Policies LDD (DMP LDD) (adopted July 2013) sets out that the Council will preserve the District's Listed Buildings and will only support applications where the extension or alteration would not affect a Listed Building's character as a building of special architectural or historic interest or its wider setting.

7.2.3 The proposed change of use would not result in any external alterations. It is not considered that the change of use of the whole building to a bar and restaurant would have any adverse impact to the Heritage Assets (Conservation Area and Listed Building). Planning permission would not be required for any associated internal alterations required to facilitate the change of use from the part of the building currently operating as a bakery. However Listed Building consent is likely to be required. This was brought to the attention of the agent at the validation stage of the application however no Listed Building Consent application was submitted. An informative will be added to the grant of any consent advising that any internal alterations of structures or features which are physically attached to the fabric of the building would require a separate application for Listed Building Consent. Any alterations to the existing signage may also require advertisement consent under separate cover. It is noted that the 'cinnamon square' sign has now been removed from the front of No.7 and the timber board left in situ.

7.2.4 In summary, it is not considered that the proposed development would result in any significant adverse impact on the Listed Building, streetscene or Conservation Area and the development would be acceptable in this regard in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM3 of the Development Management Policies.

### 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'. Policy DM9 of the Development Management Policies document reflects this guidance in respect of possible noise pollution to residential environments.

7.3.2 The application unit is surrounded by a number of non-residential uses but also residential units adjacent and opposite.

7.3.3 The first floor of No.9 which currently operates as a bar and restaurant is immediately adjacent to a residential flat at No.7A with other residential properties also present in the locality. The wall of the first floor of the bar/restaurant shares the flank wall with the flat at No.7A.

7.3.4 The current premises license which covers all of the floor area subject to this application outlines the following opening hours:

Monday to Thursday: 09:00 – 00:30

Friday to Saturday: 09:00 – 01:30

Sunday: 09:00 – 23:00

7.3.5 Notwithstanding the current premises license, as outlined in section 3 above the current extent planning conditions via 19/1847/RSP restrict the opening hours to:

08:00 until 23:00 Sundays to Thursday (inclusive)

10:00 until 23:30 Fridays and Saturdays.

7.3.6 This application seeks to vary the above hours to 10:00 until 01:00 every day. However it is understood from the supporting information that this application seeks to bring the hours restricted by planning condition in line with those outlined within the premises license. Therefore the current application seeks to amend the opening hours to:

**Monday to Thursday: 09:00 – 00:30**

**Friday to Saturday: 09:00 – 01:30**

**Sunday: 09:00 – 23:00**

7.3.7 As it stands the opening hours consented via the premises license do not override the opening hours restricted by the extant planning condition. Whilst the desire to align the two is noted, regard must still be had in planning terms to the impact of the revised hours on neighbouring amenity.

7.3.8 Owing to both the number and proximity of residential units surrounding the application site it is not considered that aligning the hours is, in this instance, appropriate. For example, 00:30 hours mid-week is considered too late for a drinking establishment, both due to the noise arising from inside the building but more importantly from the noise and disturbance on the street, immediately in front of the premises. Similarly 01:00 or later on Friday and Saturday is also considered too late in this location. It is noted that there are other premises within the locality (Pennsylvania and The Feathers) which currently open later. However these are long established public houses and cannot be used as sole justification for similar

opening times at the application site. A 23:30 closing time Monday-Thursday and 23:00 on a Sunday is considered appropriate on nights where people are more likely to be working the next day. Extending the current restriction on Fridays and Saturdays from 23:30 to 00:00 is also considered reasonable. Once the premises closes it is likely that a short period of disturbance may continue whilst customers leave. As such 00:00 is not considered unreasonable as this allows for the time to customers to vacate. Should opening be extended upwards of this time it not considered that this would be fair to neighbouring properties in close proximity to the application unit. Given that the building is also listed with single glazed windows this also limits the sound proofing capabilities of the premises further identifying the need to ensure tight opening restrictions. The courtyard to the rear could also give rise to increased noise levels with customers congregating in this area late in the evening. This area and the first floor space currently forming part of the restaurant/bar use are the areas which raise most concern in respect of impact to the occupiers of No.7A. As such it is considered appropriate to restrict these spaces, so as the courtyard closes at 23:00 and the first floor closes at 23:30 (as is currently the restriction of the planning condition) to reduce the levels of noise in the spaces which would be most apparent to this residential property.

7.3.9 In summary, it is considered that the proposed hours as set out at 7.3.6 would result in demonstrable harm to neighbouring amenity through noise and disturbance and comings and goings at anti-social hours, contrary to the requirements of Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013). However, officers consider that some extension to the hours to 23:30 Monday – Thursday and 23:00 Sunday would strike an appropriate balance between the needs of the business and amenity of neighbouring occupiers. Similarly, no objection to an extension of opening until 00:00 on Friday and Saturday is also considered acceptable.

7.3.10 The following table sets out the current hours (both premises licence and planning), the proposed hours and hours considered acceptable by officers.

	Opening hours (premises license)	Current planning condition	Officer's hours	Proposed
Monday	09:00 – <b>00:30</b>	08:00 – <b>23:00</b>	08:00 – <b>23:30</b>	
Tuesday	09:00 – <b>00:30</b>	08:00 – <b>23:00</b>	08:00 – <b>23:30</b>	
Wednesday	09:00 – <b>00:30</b>	08:00 – <b>23:00</b>	08:00 – <b>23:30</b>	
Thursday	09:00 – <b>00:30</b>	08:00 – <b>23:00</b>	08:00 – <b>23:30</b>	
Friday	09:00 - <b>01:30</b>	10:00 – <b>23:30</b>	08:00 – <b>00:00</b>	
Saturday	09:00 - <b>01:30</b>	10:00 – <b>23:30</b>	08:00 – <b>00:00</b>	
Sunday (and Bank Holidays)	09:00 – <b>23:00</b>	08:00 – <b>23:00</b>	08:00 – <b>23:00</b>	

#### 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. Owing to the nature of the proposal it is not considered that any adverse impact would result in this respect.

## 7.5 Trees and Landscaping

7.5.1 The application site is located within a Conservation Area and as such all trees are protected. However owing to the nature of the proposal it is not considered that any adverse impact would result in this respect.

## 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 existing A1 use required 1 space per 30sqm. The existing A3 use requires 1 space per 5sqm of floorspace of dining area plus 3 spaces per 4 employees and the A4 use requires 1 space per 3sqm of floorspace of bar area plus 3 spaces per 4 employees.

7.6.3 As existing there is 16sqm of A1 floorspace and as such would require one parking space. There is 53sqm of A3 and A4 floorspace (excluding kitchens) plus 3 employees.

7.6.4 The proposed use would have 2 part time employees (1 full time equivalent) and 69sqm of floorspace in A3 and A4 floorspace (now Class E and sui generis). The maximum requirement for parking would be 15 spaces (3.75 to 7.5 spaces if the zonal reduction is applied). This would be a reduction to the existing requirement therefore resulting a reduced shortfall than existing.

7.6.5 The application site has no on-site parking however owing to the town centre location it is not considered that the proposal would result in harm in this respect.

## 7.7 Flood Risk and Drainage

7.7.1 Owing to the nature of the proposed development it is not considered that any adverse impact would result in this respect.

## 7.8 Refuse and Recycling

7.8.1 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.

7.8.2 Given that there is an existing commercial use on site it is not considered that any further details of refuse and recycling would be required.

## **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: 22/1029/01, 22/1029/02, 22/1029/03A and 22/1029/04

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the locality, the residential amenity of neighbouring occupiers in accordance with PSP1, CP1, CP7, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM3, DM6, DM9 and DM13 and Appendix

5 of the Development Management Policies LDD (adopted July 2013), Policy SA4 of the Site Allocations Local Development Document (adopted November 2014), and The Rickmansworth Town Conservation Area Appraisal and Character Assessment (1993).

- C3 The change of use to Class E (restaurant and café) and sui generis (drinking establishment) hereby permitted shall not operate other than between the hours of 08:00 until 23:30 Mondays to Thursday (inclusive), 08:00 until 00:00 Fridays and Saturdays and 08:00 until 23:00 on Sundays and Bank Holidays.

Reason: To safeguard the residential amenities of the occupiers of neighbouring properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

- C4 The first floor space (with the exception of the toilets) shall not be used after 23:00 (Sunday to Thursday inclusive) and 23:30 on Fridays and Saturdays and the courtyard shall not be used after 23:00 on any day.

Reason: To safeguard the residential amenities of the occupiers of neighbouring properties in accordance with 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](mailto: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](http://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.

- I2 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 development maintains/improves the economic, social and environmental conditions of the District.
- I3 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.