

**SITE PLAN ATTACHED**

**6. 114 ORCHARD AVENUE BRENTWOOD ESSEX CM13 2DP**

**REMOVAL OF CONDITION 4 (NO HEATING/COOKING EQUIPMENT SHALL BE USED ON PREMISES) OF APPLICATION 15/00145/FUL (CHANGE OF USE FROM MOTOR SPARES SHOP (RETAIL) TO CAFE (FOOD OUTLET)).**

**APPLICATION NO: 15/01341/FUL**

<b>WARD</b>	Brentwood South	<b>8/13 WEEK DATE</b>	16.12.2015
<b>PARISH</b>		<b>POLICIES</b>	CP1 NPPF NPPG
<b>CASE OFFICER</b>	Kathryn Mathews	01277 312500	
<b>Drawing no(s) relevant to this decision:</b>	01; 02;		

**1. Proposals**

Consideration of this application was deferred at the January 2016 Planning and Licensing Committee as Cllr Wiles advised the Committee that the applicant would be submitting the necessary documentation to overcome the reasons for the officer's recommendation for refusal (Minute 303 refers). The additional information which was subsequently received was insufficient to overcome the Environmental Health Officer's objection to the proposal as it consisted of a standard picture of an external flue terminating above eaves level and there was no information detailing and confirming all of the various requirements outlined in their consultation response. However, the matter has now been resolved following subsequent discussions between the Environmental Health Officer and the applicant.

Proposed removal of condition 4 (No heating/cooking equipment shall be used on premises) of application 15/00145/FUL (Change of use from motor spares shop (retail) to cafe (food outlet)).

Condition 4 requires the following:-

'No cooking/heating equipment shall be used on the premises other than a grill and hot plate griddle at any time. Reason: To protect the amenities of the occupiers of local residents.'

This condition was imposed based on the types of low level foods the applicant wished to serve at that time and as the ventilation system proposed would not have been adequate if a fat fryer or more commercial cooking were to be carried-out at the premises, based on the advice of the Environmental Health Officer.

As part of the current application as originally submitted, the applicant explained that due to 'popular demand' for chips, they had installed a table top thermostat controlled fryer and had upgraded their extraction ventilation system inside the premises but that there had been no change to the vents on the exterior wall. They also wished to use an oven at the premises for jacket potatoes and warming rolls on occasion. A Bain Marie was used to keep beans/mushrooms/tomatoes warm. Photographs of the internal extraction ventilation system, fryer, Bain Marie and oven which had been installed were provided. A copy of a gas inspection record and a Fire Risk Assessment also accompanied the application. The applicant stated that they wished to be able to serve a wider variety of hot foods at the premises.

It is understood that the applicant no longer intends to use a fryer and that the fryer that had been installed is to be removed from the premises but that a Bain Marie, griddle, oven and grill are in use.

As part of the original application, the applicant stated that the use would be mainly as a sandwich/coffee shop and that there would be 12 covers in total. The application related to the ground floor of the property which has a total floorspace of 58sq.m. No changes were proposed to the external appearance of the building except for an extractor on the side wall of the building. The opening hours for the use are limited to: 07:00-16:00 Mondays to Fridays, 08:00-14:00 Saturdays and Sundays, with no opening on public holidays (condition 2 of 15/00145/FUL).

The property is owned by Brentwood Borough Council.

## **2. Policy Context**

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgement in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

On 6th March 2014, the government published Planning Policy Guidance (NPPG) which, along with the NPPF, is a material consideration in the determination of planning applications. The NPPGs have been taken into account, where relevant, in the following assessment.

CP1 (General Development Criteria) Requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment.

T2 ( New Development and Highway Considerations) refers to the need for proposals not to have an unacceptable detrimental impact on the transport system.

## **3. Relevant History**

- 15/00145/FUL: Change of use from motor spares shop (retail) to cafe (food outlet). -Application Permitted

## **4. Neighbour Responses**

14 letters of notification were sent out and a site notice was displayed outside the property. No letters of representation have been received.

## **5. Consultation Responses**

- **Highway Authority:**  
None.

- **Environmental Health & Enforcement Manager:**

- o There will be allowed; Bain Marie, Griddle, Oven and grill.
- o No Fryer. This equipment to be removed.
- o External point for the ventilation to be left as terminating as a vent on the wall. With a caveat that if they expand their cooking range/equipment then we will require full ductwork + termination 1m from roof level/gutter (depending).
- o Grease trap to be installed as soon as possible. This has already been purchased.
- o Grease filter to be installed after the baffles within the ventilation hoods in the kitchen. Again, if they expand their cooking range/equipment, an Activated Carbon filter would be required to be installed after the Grease filter.

## **6. Summary of Issues**

The application site is allocated in the Local Plan for residential purposes but is located in a mixed use area. The site is within close proximity to other commercial uses (including a convenience store and hairdresser) as well as residential units (including at first floor level above the cafe, a block of flats to the rear beyond a garage block and dwellings to the south, south-east and south-west) and a scout camp to the east.

The main issue which requires consideration as part of the determination of this application is the impact of the proposed use on the amenity of the occupiers of local residences.

The Environmental Health Officer has advised that, for the type of cooking equipment the applicant now wishes to use at the premises, a mechanical extraction system does not currently need to be provided to the kitchen area. As a result, it is considered that the now amended proposal would not cause harm to the amenity of the occupiers of neighbouring and local residents by reason of odour, noise, vibration, in compliance with the NPPF (paragraph 17) and Policy CP1 (criterion ii). The application is recommended for approval on this basis below, subject to a condition limiting the cooking/heating equipment that can be used at the premises.

## **7. Recommendation**

The Application be APPROVED subject to the following conditions:-

1 U14681

No cooking/heating equipment shall be used on the premises other than a Bain Marie, grill, oven and hot plate griddle at any time.

Reason: To protect the amenities of the occupiers of local residents.

2 AME01            Applications for Amendments

This permission relates only to condition 4 of planning permission 15/00145/FUL and in all other respects the development shall be carried out fully in accordance with planning permission reference 15/00145/FUL granted on 26 June 2015.

Reason: To establish the scope of this permission.

3 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

#### Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

3 INF22

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### *BACKGROUND DOCUMENTS*

#### **DECIDED:**

