

SITE PLAN ATTACHED

06. 198 - 202 RAYLEIGH ROAD HUTTON ESSEX CM13 1PN

CHANGE OF USE FROM CLASS A1 (RETAIL) TO CLASS A5 (HOT FOOD TAKEAWAY), INSTALLATION OF REPLACEMENT SHOP FRONT, INSTALLATION OF COLD ROOM COMPRESSOR, AIR CONDITIONING UNIT, 2 NO. FRESH AIR INTAKE DUCTS AND EXTRACT DUCT.

APPLICATION NO: 15/00788/FUL

WARD	Hutton East	8/13 WEEK DATE	21.08.2015
PARISH		POLICIES	NPPF NPPG S4 T2 CP1 PC4
CASE OFFICER	Mr Jonathan Binks	01277 312500	
Drawing no(s) relevant to this decision:	BLOCK PLAN ; SITE PLAN ; EX 01 ; EX 02 ; GA 03 ; EL 04 ;		

This application was referred by Cllr Sanders for consideration by the Committee. The reason(s) are as follows:

Highway safety, parking, impact of a national brand changing the village nature of the parade, the need for extraction units generating fumes, impact on neighbours amenity.

1. Proposals

Planning permission is sought for a change of use from the current use class (Class A1 - shop) to a hot food takeaway (Use Class A5) and includes the installation of a replacement shop front, cold room compressor, air conditioning units, two air intake ducts and an external extract duct.

The applicant has indicated that the hours of opening are Monday - Wednesday 12 - 10pm and Thursday - Sunday 12 - 11pm (email dated 23rd September 2015).

In support of the application, the applicants have provided information indicating that the new store will relieve some of the pressure on the existing store on High Street in Brentwood. Given the residential catchment it is anticipated that a

significant amount of trade from the store would be generated by customer pickups, both on foot and by car.

Four parking spaces are provided to the front on hardstanding. The applicants advise that in respect of car borne collections, it is considered there is sufficient customer car parking available to the front of the parade, particularly when considering that Domino's peak trade will be after 6pm when the majority of the other shops in the parade have closed. The access road to the side of the property and the rear parking area would be used by staff to collect for deliveries in cars.

The applicants have provided additional information and indicate that the delivery peak will be between 6pm and 9pm with approximately 15-20 deliveries an hour expected to be dispatched on the busiest days - Friday and Saturday, with lower delivery volumes throughout the rest of the week. 15-20 deliveries an hour on peak days, taking on average 15 minutes, would equate to 5 or 6 delivery drivers working during the peak time, although they obviously would not all be arriving and departing at the same times.

2. Policy Context

National Planning Policy Framework 2012
National Planning Practice Guidance 2014

CP1 General Development Criteria
S4 Non-retail uses within Local shopping centres and parades
T2 New development and highway considerations
PC4 Noise

3. Relevant History

- 11/00276/FUL: Erection Of Storage Shed To The Rear Of The Site, In Association With Existing A1 Retail Unit. -Application Permitted
- 15/01141/ADV: 1 no. internally illuminated fascia sign and 1 no. internally illuminated hanging sign -

4. Neighbour Responses

15 adjoining and nearby occupiers were notified of the application and a site notice was posted. There were 8 responses (two from the same address) objecting to the proposal on the following grounds:

- people and staff using the unit will park outside neighbouring properties
- the proposed takeaway would open until midnight
- increase in noise and rubbish
- detrimental to residential amenity due to disruption
- noise pollution to a residential garden associated with the use of the existing side access

- later than normal shop hours causing loss of enjoyment of evening for neighbouring residential occupiers
- noise and activity from delivery vehicles
- manufacturing noise adversely affecting quality of life
- noise disruption from plant and machinery, including noxious smells, which will be anti-social
- people will drop litter in residential gardens
- The Hutton Village Shops would be adversely affected as this would be the only unit which would open for 12 hours a day
- a takeaway would not meet a proven local need
- the proposal will result in youth gatherings/visitors which will cause anti-social behaviour/crime as the site is close to two schools and the Playing Fields
- the Council should not sanction any takeaways which could cause obesity in children/an exclusion zone should exist
- the proposal will result in highway safety issues, already present, but will be exacerbated by the increased volume of vehicles
- people are likely to crash their cars into a neighbour's boundary fence
- the proposal is for a double/large unit and in future there could be eat-in provision with insufficient parking
- the takeaway would start a disastrous decline of this cherished local amenity
- insufficient consultation undertaken
- the parking area for the whole parade is already congested and informal and haphazard, its increased use will result in an increased risk of accidents
- litter bins should be provided
- delivery scooters will have a negative impact on the peacefulness of the area
- it is noted that there would be filtration and extraction but food smell will be obnoxious
- the takeaway activity will wake sleeping children in nearby properties
- likely vermin problems
- rubbish will be left at the Playing Fields
- the size of the frontage would be disproportionately large and overbearing to the other shops detracting from their attraction
- the parade should only have independent operators
- bright lights and glaring back-lit signage with a national brand would not be ok
- the main sewer is not adequate

The need for the takeaway was also raised as Dominos has 2 outlets in Brentwood and Billericay already. Officer comment - the type of takeaway is not of itself a planning consideration and, while it is noted that there are other existing Dominos, the planning consideration is whether or not a takeaway would be acceptable or not in this location taking into account the planning policy of the Borough. The type of takeaway user would, if permission is granted, be for the market to decide.

The cost of properties was raised as a reason that the occupiers are entitled to not having unacceptable commercial activity close by. Officer comment - the value or

cost of properties is not a material planning issue and the commercial unit is an existing unit in an existing shopping parade.

5. Consultation Responses

- **Highway Authority:**

As none of the changes are affecting the highway, therefore, from a highway and transportation perspective the Highway Authority has no comments to make on this proposal.

- **Environmental Health & Enforcement Manager:**

Ventilation requirements

A mechanical extraction system shall be provided to the kitchen area in accordance with details submitted to and agreed in writing with the Local Planning Authority. Such agreed works shall be fully implemented prior to the commencement of any use hereby permitted and shall be maintained in the approved form while the premises are in use for the permitted purpose.

In particular, prior to installation, details of all fume extraction and ventilation equipment shall be submitted to and approved in writing by the L.P.A. The equipment shall be installed as approved and shall be maintained in the approved form while the premises are in use for the permitted purpose. Adequate odour control and noise attenuation measures will be required, particularly when relating to residents of the flats directly above and nearby to the shop.

The extraction system will require adequate odour control and noise attenuation measures and will normally be required to terminate at least 1m above the highest roof level and the efflux velocity of the discharge shall be a minimum of 15m/sec. A suitable flue termination such as Scandinavian sleeve must be provided. This Service, as a matter of course with such applications, would require an activated carbon filtration system to be installed.

Any mechanical ventilation must be capable of supplying fresh air to the kitchen. Additionally, a ventilation hood located over the oven and heating appliance equipped with a grease filter should be installed.

6. Summary of Issues

Key Considerations:

The main issues are the principle of the proposed development, impact on the character and appearance of the area, impact on residential amenity and highways/parking issues.

Site description:

The site comprises the ground floor of a double-fronted unit located on the northern side of Rayleigh Road (A129). The unit has been extended to the rear with a single-storey pitched roof with commercial bi-fold doors. There is also a corrugated iron storage building with a flat roof to the rear and some floodlighting. There is a 2m high close boarded fence to the rear/side with some conifer trees to the shared boundary with No. 196 Rayleigh Road and to the rear with a hedge to the shared boundary with No. 204 Rayleigh Road. The unit was vacant at the time of the site visits but its last use was as A1 (Retail) as a bathroom sales/showroom. The unit forms one end of a parade of shop units with a variety of mainly A1 uses but with an existing takeaway at the far end "Hutton Spice". There is a residential unit above the shop accessed from the front, repeated to the first floor of other units in the parade.

There are four parking spaces to the front of the unit on hardstanding and there is a gated vehicle access to the side of the unit with a parking area to the rear. The surrounding area is otherwise residential in character.

The Brentwood Replacement Local Plan (the RLP) has not been updated since the publication of the National Planning Policy Framework (the Framework) and it is necessary to consider the weight to be given to the policies that are relevant to the determination of this application. Paragraph 215 of the Framework indicates that if development plans have not been revised to take account of the Framework decision-takers should give "due weight" to policies in existing plans according to their degree of consistency with the Framework.

Policy CP1 is a wide-ranging general policy that seeks, amongst other things, to ensure that developments do not have an unacceptable detrimental impact on the general amenities of nearby occupiers or the occupiers of the proposed development by way of overlooking, lack of privacy, overbearing effect or general disturbance (Criterion ii). That objective is fully consistent with one the core planning principles of the Framework which indicates that a good standard of amenity for all existing and future occupiers of land and buildings should always be sought.

RLP Policy S4 seeks to maintain an appropriate balance between A1 retail and other uses to avoid over-concentration of groups of adjacent non-retail uses which can lead to a loss of retail floor space reducing the attractiveness of parades and therefore their viability. The policy is broadly compliant with the NPPF (paragraph 23) which indicates that local planning authorities should pursue policies to support the viability and vitality of town centres and set policies that make clear which uses will be permitted in identified locations.

Each of the RLP Policies set out above predates the Framework; however their objectives are fully consistent with the Framework and those objectives may therefore be given full weight.

Policy S4 indicates that A5 uses will be allowed in local shopping parades providing it would not result in more than two adjacent non-retail uses and in the case of shopping parades AND no more than 40% of units should be in non-retail uses. In addition it would only be allowed where the imposition of conditions regarding hours of opening, control of noises and smells can protect the amenities of adjacent residents and the surrounding area. Applicants are required to provide details of any extraction, refrigeration units etc. with their application.

There are 9 units in the parade. The double unit at the application site is counted as two units for the purpose of this calculation, although the small units are both counted as one unit each (the hairdresser and dry cleaners at 210a and b). The adjoining unit, No.204 Rayleigh Road is a computer repair shop in A1 Use such that the proposal would not result in more than two adjacent non-retail uses. There is only one other non-retail use, an Indian takeaway, in the parade. As a result of the proposed development, 3 of the 9 units would be in non-retail use which at 33% would be below the criteria indicated in policy S4. It is therefore considered that in principle the proposed change of use from A1 to A5 would be acceptable.

Impact on the character and appearance of the area:

The external changes are the installation of a new shopfront and provision of extract duct, air con units, compressor and air intake ducts.

The main change is the provision of a replacement shopfront (signs and other advertising are not the subject of this planning application and would anyway require the submission of a separate advertisement under the Advertisement Regulations).

The proposed shopfront would have large windows with a new stall-riser and a centrally located door which would provide level access. The existing rendered pilasters would be repainted. The external materials would be aluminium in traffic grey. The proposed shopfront would introduce a stallriser reducing the existing glazed proportion. While grey is a subdued colour, it is expected that any accompanying signage to the fascia would be in the house colours of blue, white and red. Of itself, the shopfront with the same size of fascia sign board is considered to be acceptable in terms of its impact on the character and appearance of this commercial area.

It is proposed to locate the extract duct to the rear of the two-storey part of the building. Given its location at the rear of the unit it would not be visible from public viewpoints. It would be visible from the rear garden to the adjoining properties and would be visible from one of the windows to the upper floor property. It is considered that the extract duct would be limited in height as it would rise 1m above

the rear eaves level that it would be acceptable in respect of its impact on the character and appearance of the area.

The compressors and fresh air intake would be located to the rear close to the door, they are relatively small in scale and attached to the building. It is not considered that of themselves they would result in any harm to the character and appearance of the area.

Impact on residential amenity:

The proposed takeaway is proposed to open between 12 noon and 11pm. The other units are mainly day-time A1 (Retail uses) which are mainly closed by 6pm. The Indian Takeaway is indicated as opening between 5pm and 10pm every day including bank and public holidays. The proposed use would therefore operate beyond the majority of the existing units and beyond the other takeaway in the shopping parade.

The applicant indicates that its peak times are between 6pm and 9pm each evening and that its deliveries are undertaken in cars where drivers are required to sign up to an expected code of conduct. The side vehicle access and rear parking area is existing, and it would be unreasonable to restrict the use of this area in relation to the normal commercial requirements of a business in this unit.

With the exception of the occupiers of the flats above, the nearest neighbouring property is 196 Rayleigh Road. The proposed A5 use is likely to result in some additional activity within and outside the premises with comings and goings until later in the evening than at present, although the parade will be quieter once the day-time activities cease. However, the A129 is a through route, and although relatively quieter in the evening after rush-hour would still generate background noise from passing cars and buses. Given the semi-urban location it is considered that any additional noise or disturbance arising from the use of the unit would not be unacceptable subject to a condition limiting the opening hours.

The fume and ventilation extraction would be agreed to standards set out by the Environmental Health Department and it is anticipated that subject to conditions there would be no detrimental impact on nearby residents by reason of noise or odour from this equipment.

Overall it is considered that the effect on the amenity of neighbouring residents would not be so harmful that a refusal of permission could be justified.

Parking/highways:

There are four parking spaces for customers to the front and a large enough hardstanding area for four - five staff/delivery vehicles to the rear.

Rayleigh Road (A129) is also a bus route with a bus stop on the opposite side of the road and one to the east on the same side of the road which provides an alternative form of transport.

A number of objectors have raised concerns regarding the current shared parking area at the shopping parade and some near-misses and damage to a fence. While the proposed use would be likely to attract more customers than the recent bathroom showroom and would open later than the current existing use, there would be no change to the existing parking area or the existing vehicle access to the application site. It would be unreasonable to require the new, relatively smallscale use to provide highway improvement facilities which would benefit the whole parade.

The Highway Authority confirm that there have been no reported accidents in the last three years at the application site and they raise no highway safety concerns in relation to the proposed use.

Other matters:

Most of the objections raised by nearby residents have been addressed in the body of the report.

The distance from schools where school children can buy fast food and other such snacks also applies to supermarkets and newsagents which sell a range of unhealthy foods such as crisps and sweets as well as both cold and hot snack food such as pasties and sausage rolls. The nearest school is some distance on foot from the parade of shops.

There is no submitted evidence to suggest that there would be a rise in criminal activity as a result of the use of the shop as a takeaway unit; the introduction of vermin is an unfounded speculation. The issue of additional litter cannot be controlled by a planning condition but an informative can be added suggesting that the operator introduce measures to help customers dispose of unwanted packaging.

Conclusion:

The proposal would result in a takeaway in an existing shopping parade. It would be acceptable in principle and, subject to suitable conditions being attached to ensure reasonable opening hours it is considered that the proposed use would not result in any material harm to existing residential amenity. The proposed development is not considered, due to its limited external works, to result in any harm to the character and appearance of the area and there are no parking or highways issues raised. The proposal would therefore accord with the NPPF, NPPG and Policies CP1, S4, T2 and CP4 of the Borough Replacement Local Plan.

7. Recommendation

The Application be APPROVED subject to the following conditions:-

1 TIM01 Standard Time - Full

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 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.

3 U11173

The premises shall not be open for customers outside the following hours: 12 noon til 10pm Monday to Wednesday, 12 noon til 11pm Thursday til Sunday inclusive.

Reason: To safeguard the living conditions of nearby residents.

4 BUS07 Hours of Use - deliveries

No deliveries shall take place outside the following hours: -

(09:00 - 21:00], Mondays – Fridays, [09:00 - 17:00] Saturdays and there shall be no deliveries on Sundays and public holidays.

Reason – To safeguard the living conditions of nearby residents

5 U11085

Prior to commencement of the development hereby permitted, further details of the extract ducting system shall be provided. Once approved in writing, the extract ducting shall be implemented in accordance with the approved details and maintained.

Reason: In the interests of residential amenity.

6 U11086

Prior to the use commencing a grease trap should be installed within the foul drainage system. Once fitted it shall be regularly maintained in accordance with the manufacturers instructions.

Reason: To prevent any pollution of ground water.

Informative(s)

1 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.

2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, S4, T2 and PC4 the National Planning Policy Framework 2012 and NPPG 2014.

3 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.

4 U02569

The applicant is reminded that the premises should comply with the requirements of the Workplace (Health, Safety and Welfare) Regulations 1992 and it is recommended that you contact the Council's Environmental Health Food/Health and Safety Team to discuss the scheme before implementation.

BACKGROUND DOCUMENTS

DECIDED: