

**SITE PLAN ATTACHED**

**04. 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<br>NPPG |
| <b>CASE OFFICER</b>                             | Kathryn Mathews                      | 01277 312616          |                  |
| <b>Drawing no(s) relevant to this decision:</b> | 01; 02; 04 - EQUIPMENT PHOTOGRAPGHS; |                       |                  |

**1. Proposals**

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, the applicant explains that due to 'popular demand' for chips, they have installed a table top thermostat controlled fryer and have upgraded their extraction ventilation system inside the premises but there has been no change to the vents on the exterior wall. They would also wish to use an oven at the premises for jacket potatoes and warming rolls on occasion. A Bain Marie is used to keep beans/mushrooms/tomatoes warm. Photographs of the internal extraction ventilation system, fryer, Bain Marie and oven which have been installed have been provided. A copy of a gas inspection record and a Fire Risk Assessment also accompany the application. The applicant states that they wish to be able to serve a wider variety of hot foods at the premises.

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). The National Planning Practice Guidance (NPPG) is a material consideration in the determination of this application.

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:**  
No response at the time of writing report.
- **Environmental Health & Enforcement Manager:**  
Ventilation to the kitchen

A mechanical extraction system shall be provided to the kitchen area and will require adequate odour control and noise attenuation measures, particularly when related to the residents of the flats directly above and nearby to the shop.

Any mechanical ventilation must be capable of supplying fresh air to the kitchen with at least 20 air change/hour. Additionally, a ventilation hood located over the oven and heating appliance equipped with a grease filter should be installed.

The extraction system will require adequate odour control and noise attenuation measures and will normally be required to terminate at least 1m above the eaves level. The level and the efflux velocity of the discharge shall be a minimum of 15m/sec. This Service, as a matter of course with such applications, would require an activated carbon filtration system to be installed the after grease filter.

A suitable flue termination such as Scandinavian sleeve must be provided

Any ventilation system also has the possibility of noise and vibration implications, particularly for the residents of the flats directly above the shop. Details of the system are required in order that an assessment can be carried out.

Drainage

A suitable and sufficient grease trap shall be installed within the foul drainage system.

## **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 needs to be provided to the kitchen area and adequate odour control and noise attenuation measures are required, particularly in relation to the residents of the flats directly above and nearby to the shop. The information which has been provided regarding the mechanical ventilation system which has been installed is not considered to be adequate, in particular, the extraction system does not terminate at least 1m above the eaves level. The Case Officer has written to the applicant twice (8 December and 22 December 2015) asking for additional information but no response has been received at the time of writing this report. As a result, the proposal has the potential to cause harm to the amenity of the occupiers of neighbouring and local residents by reason of odour, noise, vibration, contrary to the NPPF (paragraph 17) and Policy CP1 (criterion ii) and is recommended for refusal on this basis below.

## **7. Recommendation**

The Application be REFUSED for the following reasons:-

R1        U11863

Due to the lack of an adequate mechanical ventilation system, the proposal has the potential to cause harm to the amenity of the occupiers of neighbouring and local residents by reason of odour, noise, vibration, contrary to the NPPF (paragraph 17) and Policy CP1 (criterion ii) of the Brentwood Replacement Local Plan.

### 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 INF20

The drawing numbers listed above are relevant to this decision

3 U02776

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

*BACKGROUND DOCUMENTS*

**DECIDED:**