

<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	FUL/2016/3022
<b>Site:</b>	50 Kenpas Highway
<b>Ward:</b>	Wainbody
<b>Applicant:</b>	Mr Mohammad Anwar Miah (owner Cllr Ali)
<b>Proposal:</b>	Change of use to mixed use of restaurant (A3) and takeaway (A5)
<b>Case Officer:</b>	Anne Lynch

### **SUMMARY**

The application proposes a change of use of this restaurant to a mixed use of restaurant and take-away. No change to the hours of opening is proposed.

### **KEY FACTS**

<b>Reason for report to committee:</b>	The premises are owned by an Elected Member.
<b>Current use of site:</b>	Restaurant A3
<b>Proposed use of site:</b>	Mixed A3 and A5
<b>Opening hours:</b>	1700 to 2300 Mondays to Saturdays and 1700 to 2230 Sundays and Bank Holidays.

### **RECOMMENDATION**

Planning committee are recommended to grant planning permission subject to conditions.

### **REASON FOR DECISION**

- The proposal will not adversely impact upon highway safety
- The proposal will not adversely impact upon the amenity of neighbours
- The proposal accords with Policies S10, EM5 and AM22 of the Coventry Development Plan 2001, together with the aims of the NPPF.

## BACKGROUND

### **APPLICATION PROPOSAL**

The application seeks a change of use of the existing restaurant to a mixed use of restaurant and take-away. No change to the current opening hours are proposed which are from 1700 to 2300 Mondays to Saturdays, and from 1700 to 2230 on Sundays and Bank Holidays. There will be no increase in the number of employees.

### **SITE DESCRIPTION**

The site is located on the southern side of Coventry approximately 2.5 km from the city centre. It is situated on a service road off Kenpas Highway (A45) between its junctions with Woodside Avenue South and traffic lights at Wainbody Avenue South. It is also very close to the junction of Kenpas Highway (A45) and Kenilworth Road (A429).

The premises are currently used as a restaurant, with some parking provided in the service road to the frontage. The parking has now been formally marked out, in accordance with a condition of the original approval.

### **PLANNING HISTORY**

There have been a number of historic planning applications on this site; the following are the most recent/relevant:

<b>Application Number</b>	<b>Description of Development</b>	<b>Decision and Date</b>
S73/2016/2026	Variation of condition 4 (to amend opening hours for restaurant) to application reference R2010/0488, granted on 26 <sup>th</sup> July 2010 for change of use to internet café during the daytime and restaurant (Use Class A3) in the evening (retrospective).	Approved 29 <sup>th</sup> September 2016.
S73/2016/0401	Variation of condition 4 imposed on application R/2010/0488 to change the opening hours of the premises to 1700 - 2300 daily	Refused 06/05/2016 - Insufficient information was provided to demonstrate that the extended opening hours would not introduce an additional level of vehicular activity which would be detrimental to the interests of highway safety.
FUL/2015/3760	First floor additional seating area	Approved 05/01/2016
FUL/2015/3346	Enlargement of first floor front window (retrospective)	Approved 10/11/2015
ADV/2015/3442	Erection of an illuminated fascia sign	Approved 10/11/2015
R/2010/0488	Change of use of former retail premises (Use Class A1) to Internet Cafe during daytime and restaurant (Use Class A3)	Approved 26/07/2010

	in the evening and extensions to the rear; installation of external flue and use of land at rear of 44 for staff parking	
R/2010/0015	Change of use from former retail premises (Use Class A1) to restaurant (Use Class A3) with rear extension; installation of external flue; and use of land at rear of 44 Kenpas Highway for staff parking	Refused 29/03/2010 Due to the impact that the extra parking demand from the proposal would have on highway safety and residential amenity.
R/2003/2814	Installation of new shopfront and roller shutter	Approved 07/01/2004
R/2001/4437	Change of use from shop (Use Class A1) to hot food take-away (Use Class A3) and fume extraction system	Refused 07/12/2001 Due to cumulative impact, impact on residential amenity and highway safety.

## **POLICY**

### **National Policy Guidance**

National Planning Policy Framework (NPPF). The NPPF published in March 2012 replaced all previous national planning policy and sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. The NPPF promotes sustainable development and good design is recognised as a key aspect of this.

The National Planning Practice Guidance (NPPG) 2014, this adds further context to the NPPF and it is intended that the two documents are read together.

### **Local Policy Guidance**

The current local policy is provided within the Coventry Development Plan 2001 (CDP) relevant policy relating to this application is:

- Policy OS4 – Creating a more sustainable city
- Policy OS6 – Change of land use
- Policy S10 – Catering Outlets
- Policy S9 – Local Shops
- Policy EM5 – Pollution protection strategy
- Policy AM22 – Road safety in new developments

### **Supplementary Planning Guidance/ Documents (SPG/ SPD)**

SPD Delivering a more Sustainable City

### **Emerging Policy Guidance**

The Draft Local Plan 2016 to 2031 has been submitted to the Inspectorate, examination hearings are currently underway. Whilst the policies do not hold significant weight at this time, they will gain weight as the local plan continues through the process. Policies within the draft local plan that are relevant include:

Policy DS3 – Sustainable Development Policy  
Policy DS1 – Overall Development Needs  
Policy R3 – The Network of Centres  
Policy R6 – Restaurants, Bars and Hot Food Takeaways  
Policy EM1 – Planning for Climate Change Adaption  
Policy AC1 – Accessible Transport Network

### **CONSULTATION**

No objections have been received from:-

Highways (CCC)

Environmental Protection (CCC)

Immediate neighbours and local councillors have been notified; a site notice was posted on 15<sup>th</sup> August 2016.

2 letters of objection have been received, raising the following material planning considerations:

- a) Increased traffic in residential area.
- b) Out of character with the area.
- c) Increased litter and smells.

10 letters of support have been received raising the following material planning considerations:

- d) Popular restaurant with local people and no comparable restaurant in the area.
- e) Better for the environment to be able to walk to collect food rather than having it delivered.
- f) Good quality restaurant with a smart appearance in this parade of shops.

Any further comments received will be reported within late representations.

### **APPRAISAL**

#### ***Principle of development***

Policy S10 states that catering outlets should be located within defined centres and employment areas and will generally be discouraged outside those areas. Proposals within defined centres and employment areas will be permitted provided that they would be compatible with nearby uses, not cause harmful cumulative impact due to the existence of any existing or proposed outlet and be compatible with other Plan policies.

The site is within a parade of local shops where the principle of a catering outlet has already been considered to be acceptable. A neighbour considers the proposed use to be out of character with the area, but given the site is a catering outlet already, the proposed mixed use would not harm the character of the area. The main issues are therefore the impact on residential amenity and highway safety.

#### ***Impact on neighbouring amenity***

Policy S10 and EM5 seek to protect residential amenity. Policy EM5 states that proposals which could result in the pollution of water, air or ground or pollution through noise, dust, vibration, smell, light, heat or radiation will only be permitted if the health,

safety and amenity of the users of the land and neighbouring land and the quality and enjoyment of the environment are assured.

The premises are already operating as a catering outlet and odour control and fume extraction equipment is in place. Therefore it is not considered that the change of use would increase odour pollution from the site. Environmental Protection have no objection to the proposals as long as there is no increase in the hours of operation. A condition in respect of the approved opening hours is recommended accordingly.

A neighbour has raised a concern with regard to additional litter associated with the use of the site in part as a takeaway. However, this is dealt with by other legislation.

### ***Highway considerations***

Policy AM22 requires safe and appropriate access to the highway system, and makes clear that consideration must be given to the impact of access and manoeuvring arrangements on neighbouring users and the amenity of residents.

There is parking in front of this parade of shops. As part of previous applications to extend the restaurant and to extend the hours of opening, concern was raised by local residents due to the limited parking provision. Parking surveys were carried out in respect of both applications and it was demonstrated that the restaurant could operate in the evening without causing a conflict with the daytime users of this parade of shops.

Highways do not consider the impact to be severe and have no objections.

### ***Conclusion***

The proposals are not considered to have a detrimental impact on residential amenity or highway safety and the application is recommended for approval.

### **CONDITIONS/REASON**

1. The development hereby permitted shall begin no later than three years from the date of this permission.

***Reason:*** *To comply with Section 91 of the Town and Country Planning Act 1990.*

2. The development hereby permitted shall be carried out in accordance with the following approved documents :Block Plan and Location Plan.

***Reason:*** *For the avoidance of doubt and in the interests of proper planning.*

3. The restaurant shall not be open for customers outside of the following hours:  
1700 - 2300 Mondays to Saturdays, and 1700 - 2230 Sundays and Bank Holidays.

***Reason:*** *To ensure that, having regard to the restricted parking available, the site is not used in a manner which is detrimental to the interests of highway safety in accordance with Policy AM22 of the Coventry Development Plan 2001.*

[Site Plan](#)