

Planning Committee Report	
Planning Ref:	FUL/2017/1989
Site:	84 Dawlish Drive
Ward:	Earlsdon
Applicant:	Direct Planning Ltd
Proposal:	Change of use to restaurant (Use Class A3)
Case Officer:	Nigel Smith

SUMMARY

The application proposes to change the use of the ground floor unit to a restaurant. The site is currently being used as a restaurant with unauthorised hot food takeaway sales. The hours of operation are 1100-2300 hours everyday.

KEY FACTS

Reason for report to committee:	Cllr Rois Ali owns the site
Current use of site:	The lawful use is A1

RECOMMENDATION

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

REASON FOR DECISION

- The restaurant use does not appear to be resulting in significant harm to the living conditions of local residents or highway safety. However the applicant has not utilised the full 2 year temporary period allowed under permitted development, it has only been in operation for around 7 months. As some concerns have been raised as a result of this application, it is considered that a temporary consent for 12 months would be reasonable in order to give time to monitor the impact.
- The proposal accords with Policies S10, OS6, EM5 and AM22 of the Coventry Development Plan 2001, Policies R6 and AC3 of the emerging Local Plan together with the aims of the NPPF.

BACKGROUND

APPLICATION PROPOSAL

The application seeks to change the use of the ground floor unit to a restaurant. The site is currently being used as a restaurant with hot food takeaway sales. The hours of operation are 1100-2300 hours everyday. The application proposal has been amended since the original submission of the application, the applicant has omitted the takeaway from the proposal.

SITE DESCRIPTION

The application relates to a mid-terraced shop unit forming part of a small parade with residential accommodation above. There is a service road to the rear and a parking area on street to the front. The wider area is residential.

PLANNING HISTORY

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

Application Number	Description of Development	Decision and Date
R/2005/6674	Change of use from A1 to hot food takeaway and restaurant and single storey extension	Dismissed on appeal (2006) due to impact upon living conditions via increase noise / disturbance and smells and also impact of rear extension
FUL/2011/0593	Change of use from A1 to daytime sandwich bar and evening A5 use plus provision of fume extraction system	Dismissed on appeal (2011) due to concerns regarding noise and disturbance to residents
FUL/2013/0543	Change of use to pizza restaurant / takeaway and erection of single storey rear extension	Dismissed on appeal (2013) Reasons explained below
FUL/2014/2322	Erection of single storey rear extension (retrospective)	Granted (2014)
FCU/2015/1906	Notification of temporary change of use to A3	Date given for the temporary change of use was 15.6.15 so this expired on 15.6.17
FUL/2015/1694	Extraction flue to rear	Granted (2015)
FUL/2015/3518	Shopfront (retrospective) and rear ductwork enclosure	Granted (2015)

In dismissing the appeal for FUL/2013/0543 the Inspector concluded that “the proposal would lead to significant harm to the living conditions at nearby residential properties in relation to noise and disturbance”. In paragraph 6 of the decision he explained that “a restaurant / takeaway use are associated with sources of noise which are not necessarily associated with retail use, such as noise from customers waiting for their order or kitchen equipment. Neither does the noise assessment address the likelihood of the premises being used more intensively in the evening period when local residents are most likely to be at home. It’s impact therefore could be significantly greater”.

POLICY

National Policy Guidance

National Planning Policy Framework (NPPF). The NPPF published in March 2012 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:

OS4 – Creating a more sustainable city

OS6 – Change of land use

EM5 – Pollution protection strategy

S10 – Catering outlets

AM22 – Road safety in new developments

Emerging Policy Guidance

The Draft Local Plan 2016 to 2031 has been submitted to the Inspectorate, examination hearings and consultation on modifications has concluded and the Inspector's report has been received. The draft plan and report have been published and are a material consideration in the determination of applications. The draft plan and report will be presented to Full Council in December, if recommendations are approved it will become the adopted development plan. Policies within the draft local plan that are relevant include:

R6 – Restaurants, bars and hot food takeaways

AC3 – Demand management

Supplementary Planning Guidance/ Documents (SPG/ SPD):

SPD Delivering a more sustainable city

CONSULTATION

No Objections received from: Highways (CCC)

Environmental Protection (CCC) have expressed some concern regarding potential noise impacts arising from a takeaway use. The concern is with regard to noises such as car doors slamming, engines revving, raised voices etc which are hard to quantify and control. Dawlish Drive is anticipated to have low background noise levels, which could exacerbate the impact.

Immediate neighbours and local councillors have been notified; a site notice was also posted.

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

- a) Traffic and parking and consequent noise has increased since the premises opened
- b) All the on street parking makes it difficult to turn into and out of Babbacombe Road difficult
- c) Permission has been refused previously for takeaway use at the site

A letter of support has been received from Cllr Andrews, stating that he has not received any complaints since the business opened and that the parade of shops has been enhanced by the business and it is better than it being left vacant.

Within the letters received the following non material planning considerations were raised, these cannot be given due consideration in the planning process:

d) There is no need for another takeaway in the area

Revised notification letters have been sent out following the change in description of development, which removed the hot food takeaway use of the site. Any further comments received will be reported within late representations.

APPRAISAL

The main issues in determining this application are: principle of development; impact upon neighbouring amenity; and highway considerations.

Principle of development

Policy S10 of the CDP states that catering outlets should be located in defined centres and employment areas and will be discouraged outside those locations. The commentary to this policy makes it clear that the reason for this is to minimise environmental and transport issues associated with such uses. Emerging policy R6 also states that catering outlets should be located within defined Centres and will discouraged outside those areas.

Therefore, if the proposed use results in harm to amenity or highway safety then it would be contrary to Policy S10 and emerging Policy R6. However, if it does not, then the principle is acceptable. These issues are discussed in more detail below.

Impact on neighbouring amenity

Policies OS6 and EM5 seek to ensure compatible land uses.

As well as flats above the retail units in the parade, there are houses to the north on Dawlish Drive. It was due to concerns regarding the impact upon the living conditions of local residents, that the previous appeals involving a hot food takeaway use of the site were dismissed in 2006, 2011 and 2013. Of particular concern was the general noise and disturbance associated with takeaway use of the site, such as car doors slamming, car engines revving and people talking.

Given that three appeals have been dismissed over the past decade relating to hot food takeaway use of the site, it is considered that allowing takeaway sales from the site would not be acceptable. Therefore the proposal has been amended to a restaurant only. However this still has the potential to cause some additional noise / disturbance to residents.

Given the lack of complaints about the business since it opened in April 2017 and the relatively low level of objection to the application (two objections received as described above) it is not evident that the use of the site as a restaurant results in significant noise and disturbance, and therefore harm to living conditions, of nearby residents. However, given the fact that the use has not been in operation for very long it is considered prudent to grant a temporary consent for a period of 12 months, during which time the impact of the use can be monitored. If significant harm results then permanent permission can be refused at the end of this period. However if it does not then permanent permission could be granted.

A condition restricting hours of operation to no later than 2300 hours is recommended, as per the hours applied for on the application form. On the basis that the premises has been used in an unauthorised capacity as a hot food takeaway a further condition preventing any hot food takeaway sales or home deliveries is also recommended.

The site already has an operating extraction flue following an application in 2015.

Highway considerations

Policy AM22 seeks to ensure highway safety in new developments. Harm to highway safety was not a reason for refusal in the appeal in 2013. Neither do Highways object to this current application, given the availability of off street parking in the parking bay in front of the shops. Therefore it is considered that the proposal complies with Policy AM22 and emerging Policy AC3.

Conclusion

The restaurant use does not appear to be resulting in significant harm to the living conditions of local residents or highway safety. However as it has only been in operation for around 7 months and some concerns have been raised, it is considered that a temporary consent for 12 months would be reasonable in order to give time to monitor the impact.

CONDITIONS/REASON

1. The use hereby permitted shall be discontinued on or before 31/12/2018

Reason: *In order to allow assessment of the impact of the use upon the amenity of local residents, in accordance with Policies OS6 and EM5 of the Coventry Development Plan 2001*

2. The development hereby permitted shall be carried out in accordance with the following approved documents: location plan; DP/2562/PP-01

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

3. No customers shall be present in the building before 0900 hours or after 2300 hours on any day.

Reason: *In order to protect the amenity of local residents in accordance with Policies OS6 and EM5 of the Coventry Development Plan 2001*

4. There shall be no hot food takeaway sales or home deliveries from the site at any time.

Reason: *To protect the amenity of local residents in accordance with Policies S10, OS6 and EM5 of the Coventry Development Plan 2001*

Location Plan
Ground Floor Plans