

<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	FUL/2019/1352
<b>Site:</b>	Cannon Park Centre Major District Centre
<b>Ward:</b>	Wainbody
<b>Proposal:</b>	Erection of a single storey extension to the western side, fronting onto Lynchgate Road to provide 2no. commercial units (Use Class A3) (Resubmission FUL/2019/0458)
<b>Case Officer:</b>	Emma Spandley

## **SUMMARY**

The application seeks planning permission for the erection of two single storey glazed extensions to the existing Cannon Park Shopping Centre which is a defined Major District Centre. The proposed extensions will be located to the northern part of the building, close to the one of the entrances to the car park, adjacent to the protected Oak tree (T1 of Lynchgate Road No.1 Tree Preservation Order (TPO)) and next to the western entrances to the shopping centre. There are also residential properties located above the shopping centre in Lynchgate Court, who's balconies look out over the application site.

The original application (FUL/2019/0458) included an outdoor seating area, which has been omitted from this application due to the potential impact on the residential properties located above in Lynchgate Court and the protected Oak tree.

## **BACKGROUND**

The application relates to the Cannon Park Shopping Centre which is a Major District Centre as stated within Policy R3 of the Coventry Local Plan 2016 (CLP). The District Centre contains Tesco and a number of smaller outlets located within a covered shopping centre. The outer walls to the shopping centre located at the northern section are predominately glazed. The application proposes to erect an extension to this area that is currently set up for outdoor seating and has a protected Oak tree within it which has a courtyard appearance and feel.

## **KEY FACTS**

<b>Reason for report to committee:</b>	6 Objections have been received. Cllr Sawdon has called the application in.
<b>Current use of site:</b>	Major District Centre
<b>Proposed use of site:</b>	Major District Centre – Restaurants / Café (Use Class A3)

## **RECOMMENDATION**

Planning committee are recommended to grant planning permission subject to conditions and the conditions listed within the report.

## **REASON FOR DECISION**

- The proposal is acceptable in principle.
- The proposal will not adversely impact upon highway safety.
- The proposal will not adversely impact upon the Protect Oak tree.
- The proposal will not adversely impact upon the amenity of neighbours.
- The proposal accords with Policies DS1, DS3, R1, R3, R6, GE4, DE1, AC1, AC2 & AC3 of the Coventry Local Plan 2016, together with the aims of the NPPF.

## **BACKGROUND**

## APPLICATION PROPOSAL

The application proposes to erect a single storey extension to the north section of Cannon Park District Centre to form two new units for Café / Restaurant Use (Use Class A3)

## SITE DESCRIPTION

The application relates to an existing Major District Centre called Cannon Park which is home to a number of different outlets. The District Centre also contains a Tesco which is open 24 hours.

## PLANNING HISTORY

There have been a number of historic planning applications on this site.

There are a number of subsidiary applications which relate to amendments to the extension to the existing shopping centre and to the design and final details of the petrol filling station.

Furthermore, there are a number of minor applications relating to change of use of units and installation of plant and equipment.

The following are the most relevant as they relate to the permissions for the Major District Centre.

Application Number	Coventry Reference Number	Description of Development	Decision and Date
S/1974/0188	28403	Proposed supermarket, 14 shop units, 5 kiosks, offices and 15 flats with enclosed arcade, 419 car park spaces, 15 lock up garages	Approved 7 <sup>th</sup> January 1974
L/1994/0161	C/45383	Extension to existing shopping centre to provide additional shops, covered mall, new access to office block, car parking. Refurbishment of shopping centre and landscaping and rearrangement of existing car parking areas.	Approved 13 <sup>th</sup> April 1994
FUL/2019/0458	N/A	Erection of a single storey extension to the western side, fronting onto Lynchgate Road to provide 2no. commercial units (Use Class A3)	Withdrawn

## POLICY

### National Policy Guidance

National Planning Policy Framework (NPPF). The new NPPF published on 19<sup>th</sup> June 2019 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 new NPPF increases the focus

on achieving high quality design and states that it is “fundamental to what the planning and development process should achieve”.

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 Local Plan 2016, which was adopted by Coventry City Council on 6<sup>th</sup> December 2017. Relevant policy relating to this application is:

Policy DS1: Overall Development Needs

Policy DS3: Sustainable Development Policy

Policy R1: Delivering Retail Growth

Policy R3: The Network of Centres

Policy R6: Restaurants, bars and Hot Food Takeaway

Policy GE4: Tree Protection

Policy DE1 Ensuring High Quality Design

Policy AC1: Accessible Transport Network

Policy AC2: Road Network

Policy AC3: Demand Management

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

SPD Delivering a More Sustainable City

### **CONSULTATION**

No objections subject to conditions have been received from:

- Environmental Protection
- Highways
- Tree Officer

Immediate neighbours and local councillors have been notified; a site notice was posted on 30<sup>th</sup> May 2019.

Cllr Sawdon has called the application into Planning Committee because the development is inappropriate due to its proximity to a residential area and will have an adverse impact on these neighbouring properties as regards noise, odours and late-night disturbance.

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

- a) Principle of eateries in this location;
- b) Impact on the residential environment due to increased noise and disturbance;
- c) Odour issues;
- d) Parking issues
- e) Impact on the protected Oak tree;
- f) Inaccuracies within the application form.

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

- g) Current issues surrounding deliveries;
- h) Terms of lease;

Any further comments received will be reported within late representations.

## **APPRAISAL**

The main issues in determining this application are principle of development, the impact upon the character of the area and the protected Oak tree, the impact upon neighbouring amenity and highway considerations.

### **Policy Background**

Section 2, paragraph 10 & 11 of the NPPF 2019 states that applications must be approved that accord with an up-to-date development plan without delay. Coventry City Council have an up-to-date Local Plan which was adopted on 5<sup>th</sup> December 2017.

Policy DS3 of the CLP states the Council will take a positive approach that reflects the presumption in favour of sustainable development consistent with paragraphs 10 & 11 of the NPPF 2019.

### **Principle of development**

The objections to the two new units are noted.

Cannon Park is a Major District Centre, Policy R3 is concerned with Major District Centres. Designated centres have been identified on the basis of their function and role within local communities, with a primary purpose of making retail and shopping provisions available to their local community in a sustainable and accessible way. The role and offer of centres is changing though and the need for flexibility is becoming increasingly important.

Across the city there are also a range of out of centre retail parks, such as Gallagher Retail Park and Airport Retail Park. It is recognised that whilst these areas currently complement the city's retail offer, any proposals for the future expansion, intensification or changes of use at these locations should be carefully assessed to ensure that they do not have a detrimental impact on designated centres and any existing, committed or planned town centre investment.

The application site is located within an area called Cannon Park Shopping Centre which is a Major District Centre as defined by Policy R3 of the CLP, therefore the principle of a restaurant / café use (Use Class A3) in this location is acceptable and in accordance with Policy R3 of the CLP.

Policy R1 of the CLP states Non-A1 uses will be supported to encourage diversification of the centre, especially around A2 – A5 uses, which includes A3 uses. The Policy further states that of great importance is the redevelopment of the Cannon Park Major District Centre in a similar format to that previously granted planning consent in 2008. Alongside recent planning consent for a new, smaller convenience store, this would see the size of the existing convenience offer significantly increased to support growth in the population around the Canley area of the city. When bringing this scheme forward however, specific care will need to be given to the highway impacts and issues that exist in the immediate vicinity

In all these Centres:

a) A balance will be sought between shops (Class A1), and other Main Town Centre and community uses in order to protect the vitality and viability of the centre as a whole;

- b) Proposals that reduce the concentration of A-class uses within a centre below 51% will not be approved
- c) a residential element will be promoted and encouraged, subject to the creation of a satisfactory residential environment and so long as it does not undermine the functionality of the centre;
- d) improvement to the environment and accessibility will be promoted and encourage.

The existing centre has an 86% (38 units) of the units in occupation as retail (Use Class A1); 2% (1 unit) in Financial & Professional Services (Use Class A2); 5% (2 units) in Restaurant / Café use (Use Class A3) & 7% (3 units) of other uses not within the A Use Class range.

The application accords with bullet point (a) & (b) (above) of Policy R1 of the CLP as it will not see the concentration of A class uses within the centre below 51%. The application seeks to construct new units not change the use of existing units.

Points (c) & (d) are discussed in more detail below.

### **Impact on the Character and Appearance of the area**

Policy DE1 of the Local Plan seeks to ensure high quality design and development proposals must respect and enhance their surroundings and positively contribute towards the local identity and character of an area.

The National Planning Policy Framework, paragraph 127 states that “Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The NPPF further states (at paragraph 130) “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being

made to the permitted scheme (for example through changes to approved details such as the materials used).”

The extension to the shopping centre will be a contemporary design that will be a predominately glazed addition. It will be tucked into an existing courtyard area which benefits from a protected Oak tree and outside informal seating.

The extension will be harmonious with the existing built form and will not appear as an incongruous feature within the street scene, due to its location within the actual District Centre and fronting onto the expansive car parking area.

The application is in accordance with the aforementioned paragraphs of the NPPF and Policy DE1 of the CLP.

### **Impact on protected trees**

Policy GE4 states development proposals will be positively considered provided:

- a) there is no unacceptable loss of, or damage to, existing trees or woodlands during or as a result of development, any loss should be supported by a tree survey;
- b) trees not to be retained as a result of the development are replaced with new trees as part of a well-designed landscape scheme; and
- c) existing trees worthy of retention are sympathetically incorporated into the overall design of the scheme including all necessary measures taken to ensure their continued protection and survival during construction.

The comments are noted with regards to the existing tree on site. The tree located within the centre of the existing outside seating space is protected by a Tree Preservation Order (TPO) (Tree Preservation Order 395 Lynchgate Road No 1 2011).

The previous application (FUL/2019/0458) proposed to have dedicated outdoor seating associated with the proposed new units. This element has been removed from the application due to the potential impact on the TPO Oak tree and the impact of noise and disturbance on the residential properties located within Lynchgate Court.

A Tree report has been submitted with this application. The Tree Officer has raised no objections to the application as the dedicated outdoor seating element has been omitted from the proposal. The outdoor seating will remain as existing.

Subject to conditions requiring the protection of the TPO Oak tree during and after construction (Condition No.8) the Tree Officer raises no objections to the application.

The application will not cause harm or loss of the protected Oak tree and is in accordance with Policy GE4 of the CLP.

### **Impact on residential amenity**

Policy R6 of the CLP states the provision of Restaurants (A3), Bars(A4) & Hot Food Takeaway (A5) will be discouraged outside of a centre. They are permitted within the defined centres as long as they do not significantly harm the amenity of nearby residents or highway safety.

The objections are noted with regard to the existing noise and disturbance that the residents face currently and the potential noise, disturbance and odour from the proposed units associated with the use.

The previous application was withdrawn due to the lack of a noise assessment. This application has included a noise assessment which has assessed the daytime background noise.

The assessment concludes that the existing background noise levels are 50db. Therefore, any increase in this noise level will not be acceptable.

Environmental Protection have raised no objections in principle to the two units being in A3 use, however, as the end user has not been identified, further noise assessments will be required in order to demonstrate that the individual operator can accommodate the unit without exceeding the existing background noise of 50db. Please see Condition No.3

Furthermore, as the end users have not been identified assessments will be required in order to demonstrate that the individual operator can accommodate the unit and operate without causing odour issues to the residents of Lynchgate Court. Please see condition No. 7).

Residents of Lynchgate Court have questioned why Environmental Protection have included opening hours 7am – 11pm. The noise assessment that was submitted with the application has only measured the daytime levels, (daytime hours are set 7am – 11pm for the purpose of the noise assessment), therefore as the background levels past 11pm have not been assessed the operating hours of both of the units will be conditioned (please see condition No.5) to 7am – 11pm.

If these hours were to change, as many of the residents are worried about late night opening and the noise and disturbance associated with late night comings and goings, a new planning application would have to be submitted to vary the condition which relates to the specified opening hours. This would have to include further noise assessments in order to establish whether the units could operate within the existing background levels.

Subject to the conditions mentioned above; the further noise assessments to assess the likely noise emissions which will include an assessment of the end users likely noise emissions which will also include an assessment for compliance with plant noise limits and the submission of any fume and extraction equipment, the application accords with Policy R6 in so far as it relates to sustaining a significant level of amenity for the residents of Lynchgate Court.

The impact on highways is discussed in more detail below.

### **Highway considerations**

Policy AC1 'Accessible Transport Network' states that development proposals which are expected to generate additional trips on the transport network should: a) Integrate with existing transport networks including roads, public transport and walking and cycling routes to promote access by a choice of transport modes. b) Consider the transport and accessibility needs of everyone living, working or visiting the city. c) Support the delivery of new and improved high quality local transport networks which are closely integrated into the built form. d) Actively support the provision and integration of emerging and future intelligent mobility infrastructure.

Policy AC3 of the Local Plan acknowledges that the provision of car parking can influence occurrences of inappropriate on-street parking which can block access routes for

emergency, refuse and delivery vehicles, block footways preventing access for pedestrians, reduce visibility at junctions and impact negatively on the street scene. Proposals for the provision of car parking associated with new development will be assessed on the basis of parking standards set out in Appendix 5. The car parking standards also include requirements for the provision of electric car charging and cycle parking infrastructure.

As mentioned above, the site is located within an existing Major District Centre as defined by Policy R3, highways have not raised any objections to the proposed two new units because the site lies within an established Major District Centre with adequate parking provision. This is subject to a condition, (condition No. 6), requiring a Construction Method Statement (CMS) to be submitted which demonstrates that the existing disabled parking provision within the adjoining car park is safeguarded during and after construction.

The application is in accordance with Policy AC3 of the CLP.

### **Other Matters**

Objections have been raised with regards to the inaccuracies within the application form.

Consultees have highlighted the following inaccuracies: -

*Trees & Hedges* – the applicant has indicated that no trees will be affected, however a TPO Oak tree is located within close proximity to the proposed extension to form the two new units. This answer should have been yes.

**Officer Response** – This is correct, the tree referred to is T1 of Tree Preservation Order 395 Lynchgate Road No 1 2011. A Tree Report has been submitted with the application that assessed the impact of the proposed extension on the tree. The Tree Officer is content with the contents of the report, which has demonstrated that the T1 Oak tree will not be harmed with the siting of the proposed extension and during the construction phase. Please refer to the section labelled '*Impact on protected*' trees above for the full assessment.

*Biodiversity & Geological Conservation* – the applicant has indicated that no protected species, designated sites or features of geological importance will be impacted, however there is a TPO tree in the proposed development area. The answer should have been yes.

**Officer Response** – This incorrect. Protected Species refers to a group of closely related organisms, for example bats, great crested newts, badgers, nesting birds etc. Designated sites refer to Local Nature Reserve, Site of Special Scientific Interest etc. and geological sites relates to the earth's physical structures and substance.

The site is not a designated site or the home to protected species. The site relates to an existing built up area and not an important geological site. A TPO tree is not considered to come under any of the above headings therefore the answer to this question is correct.

*Residential/dwelling units* – the question posed as part of the application asked 'Does your proposal include the gain, loss or change of use of residential units?' the applicant has indicated that it does not without providing any clarification of the proximity of the proposals to Lynchgate Court flats and if approved how significantly the proposals will affect the 'quiet enjoyment' enshrined in the lease of all of the flats at Lynchgate Court.

**Officer Response** – This is incorrect. The application is not for the erection of a building to be used as a house or flats or for the change of use from a commercial use to a residential

use. The impact on the living conditions of the occupiers of the adjacent flats located within Lynchgate Court is assessed under the heading 'Impact on residential amenity'

### **Conclusion**

The proposed development is considered to be acceptable in principle and will not result in any significant impact upon neighbour amenity, highway safety, or the loss of a Protected Tree for Coventry City Council granting planning permission is because the development is in accordance with: Policies DS1, DS3, R1, R3, R6, GE4, DE1, AC1, AC2 & AC3 of the Coventry Local Plan 2016, together with the aims of the NPPF.

### **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:  
Location Plan - Drawing 1095.05A  
Site Plan - Drawing 1095.06A  
Proposed GA Plan - Drawing No.1095.02A  
Proposed Elevations - Drawing No.1095.04A  
Proposed Structural Arrangement - Drawing No.1149-1  
Environmental Noise Assessment, dated 21st May 2019, Report No - 20075-1  
Amended Tree Survey & Report - Ref H 065 Rev 2.

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

3. Prior to occupation of the development hereby permitted, an environmental noise assessment shall be submitted to and approved in writing by the local planning authority. The noise assessment must be carried out by a competent person and include recommendations for any necessary mitigation measures to comply with BS 8233:2014 ""Sound Insulation and Noise Reduction in Buildings-code of practice and ""World Health Organisation Guidelines For Community noise"" The mitigation measures shall be installed in full accordance with the recommendations of the approved report prior to first occupation of the development and thereafter maintained in strict accordance with the approved details and shall not be removed or altered in any way

**Reason:** *To protect the amenities of future occupiers from road traffic noise and general disturbance in accordance with Policy DE1 & R6 of the Coventry Local Plan 2016.*

4. The sound pressure level of any new fixed mechanical and electrical plant should not exceed 50dB(A), as measured 1m from the facade of the nearest residential receivers at any other time.receivers at any other time.

**Reason:** *To safeguard the amenities of the adjoining occupiers of the development in accordance with Policy DE1 & R6 of the Coventry Local Plan 2016.*

5. The use hereby permitted shall not take place other than between 0700 hours and 2300 hours.

**Reason:** *To safeguard the amenities of nearby occupiers in accordance with Policy R6 & DE1 of the Coventry Local Plan 2016*

6. No development (including any demolition or preparatory works) shall take place unless and until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include details of:
- hours of work;
  - hours of deliveries to the site;
  - measures to ensure nil detriment to the operation of the adjacent disabled parking provision and cycle storage provision"
  - the parking of vehicles of site operatives and visitors during the demolition/construction phase.
  - the delivery access point;
  - the loading and unloading of plant and materials;
  - anticipated size and frequency of vehicles moving to/from the site;
  - the storage of plant and materials used in constructing the development, with no loss of disabled spaces;
  - the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate;
  - wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
  - measures to control the emission of dust and dirt during demolition and construction;
  - measures to control the presence of asbestos;
  - measures to minimise noise disturbance to neighbouring properties during demolition and construction;
  - details of any piling together with details of how any associated vibration will be monitored and controlled; and
  - a scheme for recycling / disposing of waste resulting from demolition and construction works.
- Thereafter, the approved details within the CMP shall be strictly adhered to throughout the construction period and shall not be withdrawn or amended in any way.

**Reason:** *The agreement of a Construction Management Plan prior to the commencement of development is fundamental to ensure a satisfactory level of environmental protection; to minimise disturbance to local residents and in the interests of highway safety during the construction process in accordance with Policies AC1 and AC2 of the Coventry Local Plan 2016.*

7. Prior to their incorporation into the development, details of fume extraction and odour control equipment (including external ducting flues) shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall be fully installed in its entirety in strict accordance with the approved details and inspected by the Local Authority before the use hereby permitted commences. Any external ducting shall be colour coated in strict accordance with the approved details within one month of its installation. The equipment shall thereafter be permanently maintained in full accordance with the manufacturer's instructions and be operated at

all times when cooking is carried out.

**Reason:** *To safeguard the amenities of the adjoining occupiers of the development in accordance with Policy DE1 & R6 of the Coventry Local Plan 2016*

8. No development or other operations (including any demolition, site clearance or other preparatory works) shall commence unless and until tree protection measures have been provided in strict accordance with details that have been submitted to and approved in writing by the Local Planning Authority to safeguard against damage or injury during construction works (in accordance with Clause 7 of British Standard BS5837) all trees on the site, or those trees whose root structure may extend within the site and which are the subject of the City of Coventry Tree Preservation Order 395 Lynchgate Road No.1 2011. In particular no excavations, site works, stock piling, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the Root Protection Area or outer canopy of any protected tree(s); no equipment, machinery or structure shall be located within this zone; no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area, or any other works be carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s).

The approved mitigation and / or protection measures shall be put in place prior to the commencement of any works and shall remain in place during all construction work.

**Reason:** *To protect adjacent trees which are the subject of a Tree Preservation Order and trees which are of significant amenity value to the area and which would provide an enhanced standard of appearance to the development in accordance with Policy GE1 and GE4 of the Coventry Local Plan 2016.*

