

Planning Committee Report	
Planning Ref:	FUL/2019/1087
Site:	Land adjacent, 377 Green Lane
Ward:	Wainbody
Proposal:	Retention of the single storey building to be used as a hot food takeaway (use class A5) and associated external flue
Case Officer:	Shamim Chowdhury

SUMMARY

The application seeks retention of the single storey building on the site in modified form (from that which was approved in 2014) and to be used as a standalone hot food takeaway. The proposed modification to the existing building (construction work has not been completed) including the proposed external flue in connection with the proposed hot food takeaway are considered to accord with the Coventry Local Plan Policies and therefore recommended for approval.

BACKGROUND

The single storey building which is part of the application proposal was granted planning permission by the Planning Committee in September 2014 (Ref. FUL/2014/2223) as an extension to the existing hot food takeaway at 377 Green Lane. Since the planning permission in 2014; the original site at No. 377 has been split and the single storey extension and the land at the front and at the rear of this building became a separate entity. The building on the site has not been constructed in accordance with the approved drawings of planning application ref. FUL/2014/2223. The current planning application has been submitted following an enforcement investigation. The application seeks permission to retain the single storey building on the site but in modified form (from that approved in 2014) and to be used as independent hot food takeaway (not part of the existing hot food takeaway at No. 377 Green Lane). The extension which was approved in 2014 was a hipped design roof with a flat roof in the middle, however, the extension which has been constructed is with a flat roof. The applicant has agreed to modify the roof design with a hipped roof in combination with a flat roof in the middle as approved in 2014, however a parapet wall would be added to the front. A new door would be added on the side elevation (towards the rear end) facing Daleway Road.

KEY FACTS

Reason for report to committee:	The application site is owned by an elected member
Current use of site:	A single storey building under construction
Proposed use of site:	Hot food takeaway

RECOMMENDATION

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

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 amenity of neighbours.
- The proposal will not adversely affect the street scene and character of the area.

- The proposal accords with Policies: DS3, DE1, R6 & AC1 of the Coventry Local Plan 2016, together with the aims of the NPPF.

BACKGROUND

APPLICATION PROPOSAL

The application seeks permission to retain the existing single storey building in modified form and to use it as a standalone hot food takeaway. An external flue in connection with the proposed hot food takeaway would be installed along the side wall of No. 377 Green Lane. The single storey building on site has been constructed with a flat roof and parapet wall at the front, however, this would be modified to incorporate a hipped roof and a flat roof in the middle. The hours of operation have been proposed as Monday to Thursday from 12:00 to 22:30, Friday and Saturday from 12:00 to 23:30 and Sunday 12:00 to 22:00.

SITE DESCRIPTION

The application site was originally part of No. 377 Green Lane but it is now a separate planning unit. The site is located at the end of a small parade of shops and is part of the Green Lane Local Centre. To the frontage is some vehicular parking on street, and the site is located opposite Finham Primary School and near to Finham Park Secondary School. The area is predominantly residential in character.

In addition to the hardstanding immediately to the front of the site, there is a parking lay-by in front of the parade providing 3-4 parking spaces and a further larger parking lay-by on the opposite side of the road, adjacent to Finham Primary School.

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/2008/0687	Change of use from retail (Use Class A1) to hot food takeaway (Use Class A5)	Approved, 03/07/2008
S73/2011/0133	Variation of condition 4 imposed on planning permission ref 26448/E granted on 3rd July 2008 for change of use from retail (use class A1) to hot food take away (use class A5) to allow the following hours of operation: 12:00 - 22:30 Monday to Thursday and 12:00 - 23:30 Friday & Saturday and 12:00 - 22:00 on Sundays (re-submission of S73/2010/1783)	Approved, 24/03/2011
FUL/2014/2223	Single storey side and rear extension	Approved, 11/09/2014
FUL/2018/3048	Retention of the single storey building and to be used as a hot food takeaway (use class A5) and associated external flue	Withdrawn, 09/04/2019

POLICY

National Policy Guidance

National Planning Policy Framework (NPPF). The NPPF was updated in February 2019 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 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

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposed development must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The current local policy is provided within the Coventry Local Plan 2016, which was adopted by Coventry City Council on 6th December 2017. Relevant policy relating to this application is:

- Policy DE1 Ensuring High Quality of Design
- Policy R6 Restaurants, bars and Hot Food Takeaways
- Policy DS3 Sustainable Development Policy
- Policy AC1 Accessible Transport Network
- Emerging SPD Hot Food Takeaway

CONSULTATION

No Objections received from:

- Highways

No objections subject to conditions have been received from:

- Environmental Protection; Public Health

Objections have been received from:

Finham Parish Council on the ground that the applicant removed all the trees on site, the submitted drawings aren't accurate and have not shown sanitation facilities, gas connection, details of chimney and extraction system, fire alarm etc. The second takeaway would increase traffic in the area and endanger pedestrians and other motorists due to loading-unloading of delivery vehicles on both forecourt and Daleway Road. Therefore, the proposed door on to Daleway Road and door at the rear should be bricked up. The hot food takeaway use could affect the air quality and residents' wellbeing due to the smell and risk of vermin.

At the time of writing the report comments have not been received from:

Waste Management;

Immediate neighbours and local councillors have been notified; a site notice was posted on 19 June 2019.

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

- a) There is no need for another takeaway outlet as it will increase the traffic in the area
- b) The applicant removed all the trees on site
- c) the submitted drawings aren't accurate and have not shown sanitation facilities, gas connection, details of chimney and extraction system, fire alarm, roller shutter etc.
- d) load-unloading on Daleway Road as well as on the forecourt would endanger highway safety
- e) No provision for disabled access
- f) smells from cooking, increase litter and risk of vermin

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

- g) The building is not going to be used as part of the chip shop
- h) It will have an adverse effect on the existing similar businesses
- i) The building has been constructed on top of infrastructure supplying electricity to neighbouring building.
- j) The part of the sewage and gas (and possibly water) systems of the neighbouring building are also located/pass under the application building. This could restrict the neighbouring occupiers from having free and uninterrupted access and use of their utility systems.

One letter/email has been received raising concerns on the validity of the application as the applicant/owner of the application site is an elected member and the application has been submitted by an agent. The applicant's/owner's details have not been made public due to GDPR rules. One of the objectors requests to use a Section 106 agreement, for the applicant to provide bollards or trees in order to discourage pavement parking. This is a minor application and as per current planning policy, section 106 for the developer's contribution restricted to major developments only. Notwithstanding, and having regard no objections being raised by the highway's authority, such provisions would not be justified in planning terms meaning they could not lawfully be requested.

Any further comments received will be reported within late representations.

APPRAISAL

The main issues in determining this application are the principle of the use of the building as a hot food take away in this location, impact on residential amenity and on the street scene and character of the area.

The principle of an extension/ building on this site has already been established following the approval of planning application in 2014, therefore, the existing building on this site is considered acceptable.

Principle of development

Policy R6 of the Coventry Local Plan 2016 requires that restaurants, bars and hot food takeaways should be located within defined centres and will normally be discouraged outside these locations. Even in defined centres consideration will be given to: the harm

to the amenity of nearby residents or highway safety; and the cumulative impacts due to the existence of any existing or consented proposed outlet.

The application site forms part of a local centre (Green Lane local centre), Policy R6 of Coventry Local Plan 2016 encourages this type of use over other areas. As highlighted above, the Policy seeks to minimise the environment and transport issues and to protect residential amenities. Policy R6 is clear that hot food takeaway uses should be located in defined centres as such uses have the potential to cause significant impact upon residential amenity, highways and parking when located outside of such areas. Whilst there is potential for hot food takeaway uses to generate additional noise and disturbance from comings and goings, car doors slamming, engines running, and raised voices from people congregating outside the premises, despite the residential properties nearby, the location of this local centre is not on an arterial route which would promote significant passing trade. As such, it is likely that, most visits would be by local residents, which would increase trade by foot, and would also reduce the likelihood of people congregating outside.

In addition, Policy R6 places emphasis on the health and wellbeing of local citizens and the potential negative impact from hot food takeaways. The prime objective is to reduce health inequalities of Coventry's population. This Policy recognises that one of the challenges the Council faces in promoting healthy eating is the availability of foods high in fat, salt and sugar in local neighbourhoods, including the prevalence of hot food takeaways in some areas. In light of this, a Supplementary Planning Document (SPD) is in the process of formal adoption. The Emerging SPD states that "Hot food takeaway applications will not be approved if the hot food takeaway falls within a 5 minutes' walk from the gate(s) of any primary or secondary school (including any Special School, Sixth Form College and Academy), within or outside Local Education Authority Control". The application site is within a 5-minute walk from one primary school and around 10 minutes' walk from a secondary school. This is clearly contrary to the emerging SPD on Hot Food Takeaways and relevant Local Plan Policy R6 due to the presence of a primary school nearby. However, if this situation does arise, the emerging SPD suggests that provision must be made to minimise the negative impact on health and wellbeing and this may include conditions being applied relating to the opening hours of the hot food takeaway. The Council's Public Health Officer has recommended a condition prohibiting the Hot Food Takeaway from opening to the public between 3.15pm and 4:30pm, Monday to Friday. This restriction would greatly minimise the prospect of young children and their guardians purchasing food from the premises on the way home after normal school hours or after extra-curricular activities in school. Condition No. 6 in connection with opening hours is recommended to ensure this.

Sustainable Development Policy DS3 of the Local Plan 2016 states that the Council will take a positive approach in considering development proposals that reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to find solutions to enable proposals to be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area, including increased health, wellbeing and quality of life.

The site is located within a local centre, served by public transport and there are a number of on street parking provisions in the form of laybys nearby the centre. The new building

would bring economic activities within this centre and provide an additional eating option in the area for the local residents. The proposal has included a service yard at the rear where there will be refuse storage areas also. It is considered that the proposal would bring social and economic benefits without affecting the environment. An appropriate extraction and odour control system would resolve any issues in terms smell or odour from the cooking.

Therefore, it is considered that the principle of a hot food takeaway within this local centre is acceptable subject to appropriate conditions, including those reflective of the emerging Hot Food Takeaway SPD.

There are no major highways issues in terms of parking and free flow of traffic due to the hot food takeaway use. The site is located opposite a primary school, and a short distance from a secondary school, where at certain times of the day there is a noticeable increase in the numbers of cars parked or passing through the area dropping off or collecting children. Green Lane is a fairly narrow road and severe congestion can occur at these times. There are parking provisions on the forecourt of the local centre in addition to a lay-by along the forecourt of the centre for at least 3/4 cars. There is another lay-by on the opposite side of the road adjacent to the school, which, whilst used less during the evening, is very well used during the day, especially at school opening and closing times. It is not anticipated that the proposed hot food takeaway will create a significant increase in the number of car journeys given that the site is not on an arterial route where people can stop to visit the local centre on their way out or in to their final destination. It is also important to note that having regard to the proposed conditions and opening times, the premises is unlikely to be operational during school drop off or collection. Highways Officers have not raised any concerns in this regard.

Impact on residential amenity

The application building shares a party wall at ground floor level with an adjoining building No. 377 Green Lane, which is also a hot food takeaway. The agent confirmed that the first floor above No. 377 is used as ancillary to the ground floor hot food takeaway and is not in residential use. The nearest residential dwelling is around 20m away on the opposite side of the junction of Daleway Road. Whilst there is potential for hot food takeaway uses to generate additional noise and disturbance from comings and goings, car doors slamming, engines running and from raised voices from people congregating outside the premises, the location is not on an arterial route which would promote significant passing trade. As such, it is likely that, most visits would be by local residents, which would increase trade by foot, and would also reduce the likelihood of people congregating outside. Given there is already a hot food takeaway on this local centre with opening hours 17:00 to 22:00 every day of the week, a similar proposal with similar opening hours (in addition to any day time operations except certain restrictions as set out above) would not result in any significant impact in terms of noise and disturbance than that which already exists from the existing commercial activities within the local centre.

It is generally accepted that modern filtration and extraction equipment can, if adequately maintained, control smells and odours. The proposal includes the siting and design of the external flue in connection with the extraction system, although no details of the extraction have been provided. The Environmental Protection Officer recommended a noise

assessment report (in addition to details of extraction system) be provided to ensure that the noise and vibration that could be generated from the internal use of the proposed hot food takeaway would not harm the nearby residents. However, a condition requiring submission of the details associated with the extraction system prior to commencement of the operation of the hot food takeaway would be satisfactory and reasonable to alleviate any adverse impact in terms of smell and odour from cooking of hot food as well as vibration which could be generated from the extraction system on the party wall of No. 377 Green Lane. A condition requiring submission of a noise assessment report prior to commencement of the use would be imposed to ensure that the internal noise would not affect the nearby residents. Therefore, subject to appropriate conditions, the proposal is considered to satisfy the policies DE1 & R6 of the Coventry Local Plan 2016, and objectives of the NPPF.

Impact on visual amenity

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 immediate neighbourhood is residential in character. The proposal involves installation of an external flue in association with the proposed hot food takeaway. The application site occupies a corner plot and is therefore, quite prominent in the street scene. Without a well thought out design and siting, an external flue could appear unsightly and visually intrusive and could affect the visual amenity and character of the area. Therefore, it is essential to ascertain the siting, design and material of the external flue during the assessment of this application.

The proposed external flue would be sited along the side wall of No. 377 Green Lane away from the road junction and would be encased with similar bricks which are on the side wall of No. 377. This solution would help the external flue to blend in with the side elevation of No. 377 and subsequently help to minimise its impact on the visual amenity of the street scene. Therefore, the design of the external flue would be acceptable subject to a condition to ensure the external flue is installed appropriately and provision of maintenance remains unobstructed.

The building is single storey and a hipped roof would be added as per the original approval which will be in keeping with the neighbouring buildings. An appropriate condition has been included to ensure the building is developed with a hipped roof and other alterations as per approved drawings within 4 months of the decision of this application. The applicant has agreed with this time frame.

The application building fronts Green Lane and side elevation runs along the public footpath of Daleway Road without any set back. The proposed plans show that the service yard would be at the rear where the refuse bins would be stored. The bulky commercial bins at the front or on the footpath along the side of the building would harm the street scene and affect the character of the area. Therefore, it would be reasonable and necessary to impose a condition to ensure that the bin storage area remains on the rear yard and to bring the refuse bins out on collection day only.

Equality implications

The access door on the front elevation of the building does not appear level with the forecourt/car parking area. It would be reasonable to impose a condition to ensure adequate provision is made for a level access prior to commencement of the use. This is to secure the satisfactory provision of access for the people with mobility issues. It is considered that there are no other known equality implications arising directly from this development.

Other Issues

It is acknowledged that the quality of the initially submitted plans were poor; however the final plans are satisfactory to demonstrate the proposal, although there are some anomalies remaining in terms on annotation and the siting and design of the external flue of the neighbouring building (no. 377 and not part of this application). The plans which are part of this application are sufficient and adequate for the assessment of the proposal. The internal arrangement/layout of the building is not entirely a material consideration in this case. The extraction system and flue would remain subject to planning permission via discharge of the relevant condition.

Concern has been raised regarding the loss of the trees along the site boundary, however these were conifers, not subject to a TPO or situated within a Conservation Area and did not have any protection by law.

The proposal is to use the building for a hot food takeaway under use class A5 and under normal circumstances, the current legislation would allow a change from A5 to an A3 restaurant (but not the other way around) without planning permission. It is considered necessary and reasonable to restrict the use of the building only to A5 use (apart from a change of use to a purpose of A1 (shops) or A2 (financial and professional services)) without planning permission. This is to minimise any adverse impact on highways and parking provision.

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 street scene and character of the area, subject to relevant conditions. The reason for Coventry City Council granting planning permission is because the development is in accordance with: Policies DE1, R6, AC1 and DS3 of the Coventry Local Plan 2016, together with the aims of the NPPF.

CONDITIONS:/REASON

1. The development hereby permitted shall be carried out in accordance with the following approved documents: Supporting Statement; CGI Rear Elevation; Elevations with external flue Dwg: 03 Rev B; Proposed Elevations and Roof Plan Dwg: 02 Rev B; Existing Ground Floor Plan Dwg: 01 C; Site and Location Plan Dwg: 00 Rev C.

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

2. No later than 12th December 2019, the roof of the application building shall be modified in full accordance with the details on the approved drawings and shall be

retained thereafter.

Reason: *To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area in accordance with Policy DE1 of the Coventry Local Plan 2016.*

3. Prior to commencement of the proposed hot food takeaway use, details of fume extraction and odour control equipment in association with the external ducting flue (which has already been included in the submitted drawings) 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. 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.

The proposed fume extraction and odour control system should include:

- A diagram showing the height and position of the extraction flue which must terminate at least 1 metre above the eaves height of the building with no flue other than an accelerator cowl
- Details of the extraction canopy and grease filtration - Details of the odour abatement system (where carbon filters are proposed details of fine grease filtration and dwell time [in seconds] must be included)
- Efflux velocity of fumes stated in m/s at the point of discharge
- How replenishment air will be provided
- Maintenance and cleaning schedule of all duct work/replacement of filters etc.

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

4. Prior to commencement of the proposed hot food takeaway use, a noise report in accordance with BS4142 'Method for Rating and Assessing Industrial and Commercial Sound' shall be submitted to and approved in writing by the Local Planning Authority. The report shall be undertaken by a competent person and evidence of their qualifications shall be included (a list of acoustic consultants can be obtained from the Institute of Acoustics - www.ioa.org.uk). The assessment shall include all activities, building services, plant and machinery and background levels shall be measured over two separate 24 hour periods to be agreed with the Local Planning Authority prior to monitoring being undertaken. The report shall provide a scheme of noise mitigation measures, as necessary, detailing works required to safeguard the amenity of residents in the adjacent residential properties. A map of monitoring points should be included together with full justification as to why these locations were selected. Calibration certificates for equipment used in the noise assessment must be submitted in the report. Thereafter the approved details shall be carried out strictly in accordance with all the recommendations contained within the approved noise report prior to first occupation of the development and mitigation measures shall be maintained in accordance with the approved details thereafter and shall not be removed or altered in any way.

Reason: *To safeguard the amenities of the adjoining occupiers of the development*

in accordance with Policy DE1 of the Coventry Local Plan 2016.

5. The premises shall not be used for any purpose other than a purpose within Class A5, A2 or A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended at the date of this permission and, for the avoidance of doubt, no seating shall be provided for customers to consume food on the premises.

Reason: *To ensure the premise is not used in an over-intensive manner having regard to the limited parking available in the locality in accordance with Policy AC2 and AC3 of the Coventry Local Plan 2016.*

6. No person shall use, and no activity shall take place on the premises other than between 1200 and 2230 Monday to Thursday, 1200 and 2330 Friday and Saturday, and 1200 to 2200 on Sunday. In addition, the premise shall not open to public nor trade between the hours of 15:15 to 16:30 Monday to Friday during school term time.

Reason: *To safeguard the amenities of nearby occupiers and to minimise impact on the residents' health and well-being in accordance with Policy DE1 and R6 of the Coventry Local Plan 2016.*

7. Adequate provision must be made for ambulant and wheelchair bound disabled people to gain easy and convenient access into and through the building. These facilities shall be maintained and available at all times.

Reason: *In order to secure the satisfactory provision of facilities and access for disabled persons in accordance with Policies AC1, DS3 and DE1 of the Coventry Local Plan 2001.*

8. The refuse bin storage facilities shall be provided as per approved drawings and must be stored within the bin storage area as shown in the approved drawings and not positioned on the public highway, unless on bin collection days.

Reason: *In the interests of residential and visual amenity in accordance with Policy DE1 of the Coventry Development Plan 2016 together with the NPPF.*