

Planning Committee Report	
Planning Ref:	FUL/2021/0221
Site:	43 Earlsdon Street, CV5 6EP (Ground Floor)
Ward:	Earlsdon
Proposal:	Change of use of ground floor from retail (Use Class E) to restaurant / takeaway (Sui Generis) with extract flue
Case Officer:	Ayesha Saleem

SUMMARY

The application is for the change of use of ground floor from retail (Use Class E) to restaurant / takeaway (Sui Generis) with an extract flue. The proposal is considered to be unacceptable in regard to principle and impact upon residential amenity.

BACKGROUND

The application has been recommended for refusal.

KEY FACTS

Reason for report to committee:	An Elected Member has an interest in land within the application site.
Current use of site:	The ground floor is currently vacant and was a former retail unit and the above floors are flats.
Proposed use of site:	The proposal is for the change of use of the ground floor to restaurant / takeaway (Sui Generis) with extract flue

RECOMMENDATION

Planning committee are recommended to refuse planning permission.

REASON FOR DECISION

- The proposal is unacceptable in principle.
- The proposal will have an adversely impact upon the amenity of neighbours.
- The proposal does not accord with Policies DS3, DE1 and R6 of the Coventry Local Plan 2016, together with the aims of the NPPF.

BACKGROUND

APPLICATION PROPOSAL

The proposal is for the change of use of the ground floor retail unit to a restaurant/ takeaway (Sui Generis) with extract flue. The internal layout is to be altered to create a small retail area, a servery/ kitchen prep area, changing rooms, toilets and storage. The only external alteration relates to the erection of a flue which will be located to the rear of the property. The business is to operate between the hours of 09.30 – 23.00 Monday to Sunday. The business will also employ 3 full time employees and 4 part time employees.

SITE DESCRIPTION

The application site relates to the ground floor level of 43 Earlsdon Street. The three-storey brick-built building is located within Earlsdon District centre. The ground floor retail unit is currently vacant. The upper floors are residential flats. There is a communal bin store to the rear of the property. The site is located on a main high street which is surrounded by various retail outlets in Earlsdon District Centre. There are commercial units to the north and south at ground floor level mainly.

PLANNING HISTORY

Application Number:	Description of development:	Decision and date:
S/1963/0468	Construction of 3-storey block comprising 4 flats and 1 shop and 2 garages	Approved 31/05/1963
S/1971/0560	Change of use from sales shop to insurance and finance office	Approved 15/06/1971
S/1971/0563	Display of internally illuminated shop fascia	Approved 11/11/1971
S/1965/0477	Display of shop fascia sign	Approved 29/04/1965
L/1999/0144	Display of internally illuminated fascia and projecting signs	Approved 16/09/2014

POLICY

National Policy Guidance

National Planning Policy Framework (NPPF). The NPPF published in February 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 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 Local Plan 2016, which was adopted by Coventry City Council on 6th December 2017. Relevant policies relating to this application are:

Policy DS3: Sustainable Development

Policy DE1: Ensuring High Quality Design

Policy AC1: Accessible Transport Network

Policy R6: Restaurants, bars and Hot Food Takeaways

Policy EM7: Air Quality

Supplementary Planning Guidance/ Documents (SPG/ SPD):

SPD Delivering a More Sustainable City 2009

SPD Coventry Connected (Transport and Accessibility) 2019

SPD Air Quality 2019

SPD Hot Food Takeaway 2019

STATUTORY CONSULTATION RESPONSES

Highways (CCC)- No objection

Environmental Protection (CCC)- Objection

Planning Policy (CCC)- No objection

Public Health (CCC)- Objection

PUBLIC RESPONSES

Notification letters were sent out to adjoining neighbouring properties and a site notice was displayed on the 16th February 2021.

1 letter of objection has been received raising the following material planning considerations:

- a) Tenants have not been notified on this application
- b) Concerns regarding opening hours
- c) The applicant has put his address as the application site
- d) Cooking smells will impact residential amenity
- e) Concerns regarding noise
- f) Increase in litter
- g) Proposal is contrary to Policy R6
- h) Concerns regarding parking

A sponsored petition has also been submitted with 15 signatures objecting to the proposals.

Any further comments received will be reported within late representations.

ASSESSMENT

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 proposal is for the change of use from retail to a hot food takeaway. The site is located in the Earlsdon District Centre and as such the principle of the use in this location is acceptable. A Sequential Assessment is not required in this instance give the proposal is within an existing local centre. Planning Policy officers have no objections to the principle of development subject to consideration of other Plan Policies and the proposals according with the Hot Food Takeaway SPD.

In addition, Policy R6 emphasises the importance of the population's health and wellbeing giving particular attention to hot food takeaways. The prime objective is to reduce health inequalities in Coventry. 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) has been adopted. One of the Policies of the SPD 4.1 states 'In areas that have become over concentrated by hot food takeaways, further hot food takeaway applications will not be permitted'. As per the methodology laid out in the Hot Food Takeaway SPD, the proposed location is in an area with 3.29 takeaways per 1000 population, greater than the English average of 1.09 and therefore this application does not meet this requirement. In addition to this policy 4.2 of the SPD states that 'the hot food takeaway will not be approved if the hot food takeaway falls within a 5-minute walk of the gate of a primary or secondary school'. The proposed takeaway falls within a 5-minute walking distance of Earlsdon Primary School. Therefore, the application does not comply with this policy. The proposal is clearly contrary to the adopted SPD on Hot Food Takeaway. Therefore, the principle of a hot food takeaway in this location is unacceptable.

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.

Chapter 12 of the NPPF requires that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The plans initially showed the extraction flue to be located along the side and rear of the property concerns were raised in relation to the siting of the flue. The agent amended the plans to show that the flue will only be located to the rear of the property.

The external change relates to the extraction flue which is to be located to the rear of the property. It is not to be visible to the Streetscene. The overall scale, design and materials

of the flue is considered to be acceptable. However, there are concerns in relation to the noise this structure will create discussed in residential amenity section.

Impact on residential amenity:

The application property shares party walls/ceiling with the residential use above.

Environmental Protection officers initially requested further information in order to assess the suitability of the proposals. These were as follows:

- Full details of the extraction system
- A noise assessment to assess the internal transmission of noise between the proposed ground floor commercial use and flats above.
- Details regarding the refuse bins and how odours will be managed.

The agent submitted only details of the extraction system.

The applicant has submitted further information in respect of Environmental Protection's request; however, this information is still not complete:

The submitted information mentions both UV and carbon filtration – it's not clear if both are to be employed and neither are shown on the technical drawing as requested

The information from the applicant on carbon filtration refers officers to manufacturer's literature that is not included. Further, carbon filtration normally requires the use of fine grease pre-filters (to prevent the carbon from clogging up with grease), these are not included in the specification.

A noise assessment for the plant has not been submitted (required plant may also include refrigeration, air conditioning, external condensers as well as the extract system). Officers also requested an assessment of transmission of noise through the building structure such as kitchen and customer noise to ensure the premises are fit for purpose and the amenity of the flats above is protected.

Given that the applicant has not provided sufficient information for officers to assess Environmental Protection object to the proposals.

Highway considerations:

The proposed use is not considered likely to cause significant highway safety or capacity concerns. Despite the presence of no waiting restrictions immediately adjacent to the premises on Earlsdon Street, there are a number of on-street car parking spaces with a 1-hour time limit between 8am and 6pm and unrestricted outside these hours. There is also a public car park at Warwick Court which can be accessed via convenient footways and a pedestrian crossing to get to the development site. This car park is approximately 150m away on foot which is convenient for customers who wish to collect their food. The presence of convenience retail in the immediate vicinity of the site means that many car trips would already be on the highway network.

As such the Highway Authority offers no objection to the proposal.

Other Matters:

In relation to the neighbour representation all the tenants above the retail unit have been notified of the proposals and a site notice was placed outside the application site on 16th February 2021.

The neighbour's comments in relation to the cooking smells, concerns regarding noise, increased litter can't be covered more than they already have been due to information not being forthcoming from the applicant.

Equality implications:

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development.

CONCLUSION

In view of the unacceptable principle and detrimental impact upon neighbouring properties, the scheme does not accord with development plan policies, supplementary planning guidelines and the principles of the NPPF 2019 and therefore the application is recommended for refusal. The development does not accord with Policies DS3, DE1 and R6 of the Coventry Local Plan 2016 and the Hot Food Takeaway SPD.

CONDITIONS/ REASON

1. The proposal would be contrary to Policies R6, DS3 of the Coventry Local Plan 2016 and adopted Supplementary Planning Document (SPD) on Hot Food Takeaway and the aims and objectives of the National Planning Policy Framework by virtue of introducing a further hot food takeaway which is in area that has become over concentrated by hot food takeaways and the proposal is within a 5 minute walking distance to a primary school. The proposal would

undermine the Local Planning Authority's pledge to improve its population's health and wellbeing and to reduce health inequalities.

2. Insufficient information has been provided to demonstrate that the noise generated by the use and associated activities will not have a detrimental impact upon the living conditions of the occupiers of the residential flats above. Furthermore, the applicants have failed to demonstrate that adequate and suitable provision for the retail waste can be provided within the application site to the detriment of the living conditions of occupiers and the visual amenity of the locality. The proposal is therefore contrary to Policy DE1 of the Coventry Local Plan 2016 and the principles of the National Planning Policy Framework.
3. Insufficient information has been provided in relation to the extraction system for the Local Planning Authority to be able to ensure that the extraction system can operate in a satisfactory manner in respect of vibration and odour control such that it can safeguard the amenities of nearby residents contrary to Policy DE1 of the Coventry Local Plan 2016 and the principles of the National Planning Policy Framework.