

<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	FUL/2020/3049
<b>Site:</b>	The Farmhouse, Beechwood Avenue, CV5 6HB
<b>Ward:</b>	Earlsdon
<b>Proposal:</b>	Change of use from Restaurant to mixed use Restaurant and Shisha Bar (Shisha Bar added to first floor) and existing roof space to accommodate CCTV office area and storage, minor alteration to front elevation to apex and chimney with associated alterations
<b>Case Officer:</b>	Ayesha Saleem

### **SUMMARY**

The application proposes the change of use from restaurant to mixed use restaurant and shisha bar. The shisha bar is to be located to the first floor. The existing roof space is to accommodate a CCTV office area and is to be used for storage. The proposal will also involve alterations to the front elevation to apex and chimney. The proposal is considered to have an acceptable impact upon the street scene and no detrimental impact upon the existing neighbouring properties.

### **BACKGROUND**

The application has been recommended for approval. The application has received more than 5 public representations objecting to the proposal

### **KEY FACTS**

<b>Reason for report to committee:</b>	More than 5 objections have been received
<b>Current use of site:</b>	The site is an existing restaurant which has parking on the site.
<b>Proposed use of site:</b>	Mixed use Restaurant and Shisha Bar (Shisha Bar added to first floor) with associated alterations.

### **RECOMMENDATION**

Planning committee are recommended to approve 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 accords with Policies DS3, DE1, AC1, AC2, AC3, R6 and EM7 of the Coventry Local Plan 2016, together with the aims of the NPPF.

## BACKGROUND

### **APPLICATION PROPOSAL**

The application is for the change of use from restaurant to mixed use restaurant and shisha bar. The ground floor will remain as a restaurant and first floor is to accommodate a shisha bar incorporating a roof terrace Shisha Lounge which would be enclosed with a Pergola system with a retractable roof. The first floor including the terrace will have a capacity of 58 people. The Agent has confirmed that 4 full time and 4 part time jobs are to be created. The proposed hours of use will be between the hours of 10:00 to 23:30 Monday to Saturday and till 23:00 on Sundays.

The existing roof space is to accommodate a CCTV office area, plant room, storage area and a W/C. The proposal will also involve external alterations to the front elevation to create a new apex roof and the chimney is to be removed. The proposal will also incorporate a new canopy entrance to the side elevation and an external waste storage area is located to the side.

Since the application process started the applicant has completed the external works on site and the agent has confirmed that the shisha bar use has not commenced.

### **SITE DESCRIPTION**

The application property is located within a prominent and spacious location to the south-west of Hearsall Common and in a corner location at the junction with Beechwood Avenue and Canley Road. The premises have their main entrance and car park to the south-west elevation from Canley Road but the elevation to Beechwood Avenue and Hearsall Common is also a principle elevation, albeit without a direct customer access.

### **PLANNING HISTORY**

<b>Application Number:</b>	<b>Description of development:</b>	<b>Decision and date:</b>
FUL/2013/0585	Two storey rear extension and external bin store	Withdrawn 12/06/2013
FUL/2013/1347	Two storey and single storey extensions and external bin store (retrospective)	Approved 22/08/2013
FUL/2015/3304	Single storey extensions	Withdrawn 26/11/2015
LDC/2015/3322	Change of use from public house to restaurant	Approved 19/11/2015
FUL/2016/2446	Erection of single storey side extension	Withdrawn 12/12/2016
FUL/2016/0265	Single storey front extension	Approved 24/03/2016
FUL/2017/0563	Retention of the existing marquee on a temporary basis for 2 years	Refused 15/05/2017 and Appeal Dismissed
S73/2018/0401	Variation of condition 2 (to amend drawing number for alterations to fenestration): imposed on application reference FUL/2016/0265, granted on 24th March 2016 for the erection of single storey front extension	Approved 20/06/2018

FUL/2019/1127	Erection of a single storey front extension and change of use of the first floor to be used in conjunction with the restaurant at ground floor (Use Class A3)	Withdrawn 03/07/2019
FUL/2019/1948	External alterations to car park entrance; change of use of the first floor to restaurant use (Use Class A3) with a first-floor terrace.	Approved 08/10/2019

## **POLICY**

### **National Policy Guidance**

National Planning Policy Framework (NPPF). The NPPF published in July 2021 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 6<sup>th</sup> 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 AC2: Road Network

Policy AC3: Demand Management

Policy R3: The Network of Centres

Policy R4: Out of Centre Proposals

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

## **STATUTORY CONSULTATION RESPONSES**

Highways (CCC)- No objections

Environmental Protection (CCC)- No objections subject to conditions

Planning Policy (CCC)- No objections

Ecology (CCC)- No objections

West Midlands Fire- No objections subject to informatives

## **PUBLIC RESPONSES**

Notification letters were sent out to neighbouring houses and site notices were displayed on the 2<sup>nd</sup> March 2021.

32 letters of objection were received raising the following material planning considerations:

- a) Increase level of traffic- which is an existing issue

- b) The use will add parking pressures
- c) Highway safety concerns
- d) Increased footfall- no capacity on site to accommodate this
- e) Litter is an issue
- f) Existing ventilation system looks appalling with grease marks
- g) The shisha bar use is out of character for the area
- h) Impacts on health and wellbeing of residents
- i) Works have been carried out to the roof before the permission has been granted
- j) Will have impact on local wildlife
- k) Could lead to anti-social behaviour
- l) Overdevelopment
- m) Noise and disturbance

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

- n) Aimed to attract people from different cities
- o) People are speeding in cars
- p) Could potentially lead to flouting smoking regulations and laws
- q) Smoking shisha leads to unhealthy lifestyles
- r) During the pandemic the business have breached Covid regulations with their drive thru takeaway service
- s) The business has no engagement with the local community

Any further comments received will be reported within late representations.

## **ASSESSMENT**

### Principle of Development:

Policy R6 of the Coventry Local Plan states '1. Outlets should be located within defined centres and will normally be discouraged outside those locations.

2. Proposals within defined centres will be permitted provided they:

- a) would not result in significant harm to the amenity of nearby residents or highway safety;
- b) would not result in harmful cumulative impacts due to the existence of any existing or consented proposed outlet;
- c) are in accordance with the emerging Hot Food Takeaway Supplementary Planning Document (in particular, proposals for A5 uses); and
- d) are compatible with other Plan Policies.'

Policy R4 of the Coventry Local Plan states '1. Proposals for retail and other Main Town Centre uses (including proposals for the expansion or re-configuration of existing uses and the variation of existing conditions) will not be permitted in out-of-centre locations unless they satisfy the Sequential Assessment and the Impact Test (where appropriate).

2. Sequential Assessment

- a) A sequential assessment will be required for all retail and other Main Town Centre use proposals outside a defined centre and should be prepared in accordance with national guidance. This should have regard to the centres hierarchy set out in policy R3.
- b) Where in-centre options are exhausted, edge of centre locations (within 300m of a centre boundary) that are well connected and accessible to the centres themselves should also be considered in advance of out of centre sites.'

The previously approved permission FUL/2019/1948, approved on 08/10/2019, established the principle of the change of use of the first floor to a restaurant, with terrace. Given this proposal is for a mixed use, Policy officers consider that the ability to disaggregate the two is not reasonable. Although both restaurant use and Shisha bar are main town centre uses in their own right and when combined, the established nature of the existing restaurant and the mixed use nature of the proposal are such that in this instance Policy Officers do not consider disaggregation to be appropriate and as such a sequential assessment is not required.

In policy terms the established use as a restaurant is acceptable and given the mixed use nature of the application Policy officers are satisfied that the proposal is acceptable on policy grounds.

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 proposed change of use to mixed use restaurant and shisha bar will result in internal changes to the first-floor plan to accommodate the shisha bar element incorporating a roof terrace which would be enclosed with a Pergola system with a retractable roof. This is to be visible however given its location on the existing roof on balance this is considered to have an acceptable impact upon the visual amenity of the street scene. The other external changes such as the removal of the chimney and the proposed apex and the canopy to the side elevation are considered to be acceptable of an acceptable design and scale.

The proposed use and external changes are not considered to result in overdevelopment.

Impact on residential amenity:

Paragraph 185- 188 of the National Planning Policy framework are of relevance in this instance.

Paragraph 185 (a) discusses the impact of noise pollution by new development. The development should ensure that any noise generated is minimised and does not give rise to significant adverse impacts on health and quality of life of nearby occupiers. Furthermore, para 186 of the NPPF discusses air quality and given Coventry is an Air Quality management Area, the need to ensure that the development “contributes towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas.” is of significance.

The planning practice guidance on noise also discusses the need to assess:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and

- whether or not a good standard of amenity can be achieved.

The closest residential properties are Nos 22 and 24 Canley Road which are located at a distance of circa 70.8 metres. Given the significant separation distance the proposal is not considered to have a detrimental impact upon the neighbouring occupants in regard to health and wellbeing.

Environmental Protection officers initially requested a Noise Impact Assessment which was submitted by the Agent and has been assessed by officers. No concerns have been raised in regard to noise subject to the following conditions. It is considered that these conditions will address residents' concerns regarding noise and disturbance and hours of operation:

- Condition capacity of 58 people at any one time on the first-floor level.
- No outdoor speakers/ music and restrict to background music only for the first floor
- Noise management plan
- Confirm and condition details of balcony screen
- Restrict operating hours between 10:00 to 23:30 Mondays to Saturdays and 10:00 to 23:00 on Sundays

The applicant has accepted the changes to the proposed hours.

#### Highway considerations:

The application site has a car park which is to remain unaffected. Highway officers have no objections to the proposed development.

The parking standards would require 1 parking's space per 10qm for this use. Given the total floor area of the existing and proposed use the 63 parking spaces on site are in excess of this.

Given the parking provision and the that the access is off a service road and not directly off the highway the proposal is not considered to result in any highway safety concerns.

#### Other Matters:

The Ecology officer raises no objections to the proposals and there are no concerns in relation to impact upon wildlife.

Neighbours have raised concerns regarding anti-social behaviour and unfortunately this is not a material planning consideration as we have no control over who will visit the premises and how this will be managed.

There are no changes being made the existing ventilation system.

The development has an allocated bin storage area on site, and this is considered to be acceptable.

#### 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 acceptable principle, design and no detrimental impact upon neighbouring properties, the scheme accords with development plan policies, supplementary planning guidelines and the NPPF 2021 therefore the application is recommended for approval. The development is in accordance with Policies DS3, DE1, AC1, AC2, AC3, R6 and EM7 of the Coventry Local Plan 2016.

## **CONDITIONS:/REASON**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:  
Proposed Floor Plan and Elevations DWG:LA0001.4 A- Received 17/08/2021  
Existing and Proposed Loft Plan DWG: LA-0002.2A  
Existing Plans and Elevations DWG: LA-0003.3A  
Design and Access Statement  
Noise Impact Assessment- Ref Report 22591.NIA.01 Rev A  
Raw Survey Data 15.07.21.

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

2. The use hereby permitted shall not be occupied unless and until the bin storage areas have been provided in full accordance with the details shown on the approved plans and thereafter they shall remain available for use at all times and shall not be removed or altered in any way.

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

3. The first floor area hatched in blue hereby permitted as shown on the approved plan number DWG: LA-0001.1A shall not be occupied or be available for use by customers after 23.30 hours or before 10.00 hours Monday to Saturday or after 23.00 hours or before 10.00 hours on Sundays and Bank Holidays.

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

4. Before the use hereby permitted commences a noise management plan shall be submitted to and approved in writing by the Local Planning Authority. This shall specify

the provisions to be made for the control of noise emanating from the site and shall also include details of how amplified music and / or speech shall be limited to background noise levels inside the first floor. No external speakers shall be permitted. The noise mitigation scheme shall be implemented in full accordance with the approved details prior to the first occupation of the development and thereafter shall be retained 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. Before the use hereby permitted commences details of the balcony screen as a noise barrier shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in full accordance with the approved details. The boundary treatment thereafter shall be retained 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.*

6. The first floor area hatched in blue hereby permitted as shown on the approved plan number DWG: LA-0001.1A shall be occupied by no more than 58 customers at any one time.

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