

<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	PL/2024/0001183/FUL
<b>Site:</b>	189 Cheveral Avenue
<b>Ward:</b>	Radford
<b>Proposal:</b>	Application for Change of Use from retail to hot food takeaway use including external flue
<b>Case Officer:</b>	Pavan Flora-Choda

## SUMMARY

Change of use from retail to hot food takeaway. External alterations are for the installation of a flue to the side/rear.

## BACKGROUND

A previous similar application was refused due to insufficient information being submitted in relation to noise and odour emanating from the flue. The application has been recommended for approval. The application has been referred to Planning Committee as it has received 5 or more objections.

## KEY FACTS

<b>Reason for report to committee:</b>	The application has been referred to planning committee as 5 objections have been received
<b>Current use of site:</b>	Vacant retail unit (last used as an electrical repair and sale shop) residential flats to first floor are existing
<b>Proposed use of site:</b>	Hot food takeaway and the installation of flue

## RECOMMENDATION

Planning Committee are recommended to grant planning permission subject to conditions summarised in this 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 amenity of neighbours.
- The proposal accords with Policies: DS1, DS3, DE1, AC1, AC2, AC3, AC4, R6, EM1, EM2, EM3, EM4, EM5, EM7 of the Coventry Local Plan 2017, together with the aims of the NPPF.

## SITE DESCRIPTION

The site comprises an existing vacant retail unit situated at the corner of Cheveral Avenue and Telfer Road, approximately 1.2 miles from Coventry City Centre. The application site sits within an existing row of shops which is not a designated district centre. The other retail units on this site include Convenience store, Pet Store, Hair salon, Grocer's, hot food takeaway, Mobile phone shop. Telfer Road is residential.

## **APPLICATION PROPOSAL**

This application proposes a change of use of the ground floor retail unit to a hot food takeaway. The hot food takeaway will comprise of a seated serving area to the front with approximately 16 seats with a reception area to take and collect orders. To the rear is a proposed kitchen area with a proposed internal flue extraction system. The internal flue will have an outlet through the kitchen roof.

## **PLANNING HISTORY**

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

<b>Application Number</b>	<b>Description of Development</b>	<b>Decision and Date</b>
PL/2023/0002136/FUL	Application for change of use from retail to hot food takeaway	REFUSED due to insufficient information being submitted to demonstrate satisfactory impact of the flue upon neighbours via noise and odour

## **POLICY**

### **National Policy Guidance**

National Planning Policy Framework (NPPF) December 2023. The NPPF 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 increases the focus on achieving high quality design and states that it is "fundamental to what the planning and development process should achieve".

Consultation was recently carried out seeking views on the Government's proposed approach to revising the NPPF. It also sought views on a series of wider national planning policy reforms. The consultation closed on 24<sup>th</sup> September 2024.

The National Planning Practice Guidance (NPPG) 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 2017, 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 H9: Residential Density

Policy DE1 Ensuring High Quality Design

Policy AC1: Accessible Transport Network

Policy AC2: Road Network

Policy AC3: Demand Management

Policy AC4: Walking and Cycling

Policy AC5: Bus and Rapid Transit

Policy R6: Restaurants, bars and hot food takeaways

Policy EM1: Planning for Climate Change Adaptation

Policy EM2: Building Standards

Policy EM3 Renewable Energy Generation

Policy EM4 Flood Risk Management

Policy EM5 Sustainable Drainage Systems (SuDS)

Policy EM7 Air Quality

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

SPD Delivering a More Sustainable City

SPD Coventry Connected

SPD Hot Food Takeaway

## **CONSULTATION**

### **Statutory**

Highways- initially objected to the proposal due to insufficient car parking. However, no objection following recalculation of required spaces.

### **Non-statutory**

No Objections received from

Environmental Protection

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

Waste

### **Neighbour consultation**

Immediate neighbours and local councillors have been notified; a site notice was posted on 17<sup>th</sup> July 2024.

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

- a) odour
- b) parking
- c) late opening hours
- d) excessive takeaways in the area
- e) noise

- f) unsightly flue
- g) litter
- h) existing rodent issue

2 letters of support have been received, raising the following material planning considerations:

- i) Good for local community

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

- j) Anti-social behaviour

One letter has been received with multiple signatures raising concerns. This letter has not been sponsored by a Councillor so is not classed as a petition. The concerns are as follows:

- Impact of noise
- Concerns regarding traffic and parking
- Anti-social behaviour
- Appearance of the flue
- Refuse issues contributing to litter
- Impact on local businesses such as existing hot food takeaways
- Against policy for number of takeaways in a given area

Any further comments received will be reported within late representations.

## **APPRAISAL**

It is important to note that the application proposal is the same as the previous refusal (PL/2023/0002136/FUL) other than a change of design and positioning of the existing flue. That application was refused as insufficient noise and odour information was provided as part of the application.

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

### **Principle of development**

The application is for the change of use from existing retail use (E(a)) to hot food takeaway (sui generis) and therefore requires planning permission.

Policy R6 of the Coventry Local Plan states 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.

The Policy does not prevent takeaways outside defined Centres but rather offers encouragement for them to be located within them. The application site is situated in an existing row of shops, however, is not located in a district centre. The nearest district centre is approximately 500 metres to the north at Jubilee Crescent.

The Hot Food Takeaway SPD encourages balanced and diverse shopping areas and helps to reduce the concentration of hot food takeaways in a given area. The SPD states that in an area that has become over concentrated with hot food takeaways (with the exception of Coventry City Centre), further hot food takeaway applications will not be permitted. An area will be classed as over concentrated with hot food takeaways if the proposed address falls into a Lower Super Output Area (LSOA) where the number of takeaways per one thousand population exceeds the average for England as per the most up to date data on a national database known as the FEAT tool.

The FEAT tool has found that England's average is 1.05 HFTA's per 1000 population. In Coventry as a whole, it was found there are 1.8 per 1000 population. Within this section of Radford, which is the area under question, there are 0.81 per 1000 population. This confirms that there is not an over concentration of hot food takeaways in this area.

In addition to this the Hot food takeaway SPD states applications will not be approved if the hot food takeaway falls within a 5-minute 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.

Below is a list of the schools within the vicinity of the proposed site:

Barrs Hill School- 18 minute walk  
Radford Primary Academy-11 minute walk  
Hill Farm Primary School- 8 minute walk

The above list demonstrates there are no schools within a 5-minute walk from the proposed hot food takeaway. Further to the above information, the proposal is not contrary to Policy R6 of the Local Plan or the Hot Food Takeaway SPD, subject to satisfactory impact upon amenity and highways.

### **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.

Paragraph 131 of the NPPF states the creation of high-quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

The National Planning Policy Framework, paragraph 135 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 139) “Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes”.

The proposed flue will be visible from Telfer Road. The current proposal shows the flue to be internally installed with an outlet for the flue to the rear of 189 Cheveral Avenue. The flue is set back within the corner of the first floor L shaped rear elevation. In addition, the flue will not exceed the height of the existing main roof and plans are annotated to indicate the flue will be colour coated to match the existing elevation. It is considered that the modest flue would not have a material adverse impact upon the character of the host building or streetscene.

There are no other changes proposed to the front elevation and any new signage would be subject to Advertisement Consent.

### **Impact on residential amenity**

Policies H3, H5 and DE1 of the adopted Local Plan seek to ensure that development proposals provide a suitable living environment for future occupiers, whilst also not resulting in a detrimental impact to existing/neighbouring residential occupiers, the NPPF reaffirms the importance of quality design.

The flue is to be installed in close proximity to a habitable window to the first floor flat associated with the application site. A noise assessment has been submitted with the application and following amendments confirms that a level of -1dB for the proposed flue is found (which means it does not exceed the background noise level) and this is considered to be low noise impact. Furthermore, the bedroom benefits from dual aspect windows. It is also acknowledged that the first-floor flat is existing and is situated above

a retail unit on a street with a row of shops. Therefore, some level of noise is expected when agreeing to live in this location.

With regards to the noise impact on neighbours, number 1 Telfer Road abuts the site boundary to the rear of the application site. The noise assessment found a level of -11dB at 1 Telfer Road. This level of noise emission is considered not to be audible at any time. Given that number 1 Telfer Road is the closest residential property to the boundary, it is not considered that the installation of the flue will result in noise disturbance to the local residents.

Notwithstanding, the existing use is retail with opening hours that would not be considered unsociable. The application proposal is a change of use and the application form states the following opening times; Monday to Friday 12:00-22:30, Saturday 12:00-23:30 and Sunday 12:00-22:30. It is not considered that these operating hours for a HFTA are unreasonable, however it is evident that there is another hot food take away on the street which has permission for operating hours no later than 08:00 to 22:00. Therefore, a suitably worded condition could be added to any permission granted to ensure that the operating hours do not exceed the existing hot food takeaway on the street, which would ensure that any disturbance caused by customers or delivery drivers should not exceed the existing on Cheveral Avenue.

Environment Protection have no objections following the submission of the noise assessment and odour information provided with this application.

The waste department has been consulted as part of the application and no comments were received as the application is not in relation to a residential development. It is recommended however that a 1000litre bin is in place for the proposed development. The agent has submitted a plan to show where the existing bins are stored. The Hot Food Takeaway SPD: Policy EM8 (waste management) asks that commercial bins are stored within the site boundary and should be of a suitable size to ensure not to cause a nuisance to neighbouring residential or commercial properties. A reasonably worded condition can be added to any permission granted to ensure there is sufficient bin storage for the proposal within the existing site boundary.

Further to the above, it is not considered the proposal will have a detrimental impact on future or existing occupiers.

### **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.

Parking provision should accord with the maximum standard expressed in Appendix 5 unless it has been clearly demonstrated that the site is in a highly accessible location where transport, by means other than the private car is a realistic alternative. In that respect lower levels of provision may be considered acceptable where the site is in close proximity to the City Centre, a train station, a high-quality rapid transport route or other public transport interchange and where there is a package of measures (proportionate to the scale of development) to enable sustainable means of transport. Any variation from the maximum standard must be fully justified by proportionate evidence.

The Highways department were consulted as part of this application and originally objected to the proposal due to the proposal providing insufficient parking provision. It is important to note that on the previous application the Highways department did not object to the proposal. Following recalculations of the usable floor space for the public (approximately 29sqm) it was considered that the proposal is acceptable. Subsequently, the Highways department no longer object to the proposal.

For a hot food takeaway 1 car parking space is required per 10m<sup>2</sup> public area: 1 cycle parking space per 10 FTE staff, 1 per 200m<sup>2</sup> for customers and 1 per 400m<sup>2</sup> for staff with a minimum of 2 cycle parking spaces being provided. It has been calculated that the usable public hot food takeaway area is approximately 29 square metres (excluding the reception till area). The parking requirement for the existing retail unit is two and the requirement for the proposed HFTA is three. Therefore, the proposal will result in the increased requirement of 1 car parking space. Given the location of the proposal in a row of shops with residential area, it is considered that the proposal is situated in a sustainable location which can be accessed by foot. The requirement of a single additional car parking space is not considered to have a detrimental impact on the car parking provision in the area. It is also noted that a parking bay outside the row of shops provides car parking allowance for up to 1 hour for approximately 4 vehicles. The grocery store has its own provision of off-road parking on Villa Road for up to approximately 7 vehicles. With this in mind, as well as a bus stop a few steps from the proposed site and unrestricted street parking on Telfer Road and Villa Road, the proposal is not considered to have a significant detrimental impact on the existing parking provision in the area. It is noted that the proposal does not include a cycle parking, and a suitably worded condition could be attached to any permission granted prior to the use of the hot takeaway to ensure sufficient cycle parking is provided.

### **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 conclusion, it is noted that the other than the flue position and updated noise and odour information, the application does not differ to the previous refusal (PL/2023/0002136/FUL). The noise and odour information submitted has overcome the previous concerns of Environmental Protection. In addition, Highways raise no objections to the proposal.

The proposed development is considered to be acceptable in principle and will not result in any significant impact upon neighbour amenity, detrimental impact to character of area, highway safety, subject to relevant conditions. The reason for Coventry City Council granting planning permission is because the development is in accordance with: Policies DE1, DS3, AC1, AC2, AC3, AC4, R6, EM7 of the Coventry Local Plan 2017, the Hot Food Takeaway SPD together with the aims of the NPPF.

### CONDITIONS / REASON

<b>1.</b>	The development hereby permitted shall begin not later than 3 years from the date of this decision.
<b>Reason</b>	<i>To conform with Section 91 of the Town and Country Planning Act 1990 (as amended).</i>
<b>2.</b>	The development hereby permitted shall be carried out in accordance with the following approved plans:  Noise Assessment (revised 7/8/24), Existing and Proposed floor plans and elevations Dwg no 4141-200 Rev C.
<b>Reason</b>	<i>For the avoidance of doubt and in the interests of proper planning.</i>
<b>3.</b>	No customers shall be permitted to be on the premises and no hot food deliveries shall be carried out from the premises other than between the

	hours of 08:30 and 22:00 each day, unless otherwise agreed in writing by the Local Authority.
<b>Reason</b>	<i>To safeguard the amenities of nearby occupiers in accordance with Policy DE1 of the Coventry Local Plan 2017.</i>
<b>4.</b>	Prior to the first use of the development hereby permitted, details of bin storage areas shall be submitted to and approved in writing by the Local Planning Authority. The bin storage areas shall be provided in full accordance with the approved details prior to first use of the development and thereafter they shall remain available for use at all times and shall not be removed or altered in any way.
<b>Reason</b>	<i>In the interests of the amenities of future occupants of the residential accommodation and neighbouring occupiers in accordance with Policy DE1 of the Coventry Local Plan 2017.</i>
<b>5.</b>	Prior to occupation of the hot food takeaway hereby permitted, details of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall be provided in full accordance with the approved details prior to first occupation of the building and thereafter those facilities shall remain available for use at all times and shall not be removed or altered in any way.
<b>Reason</b>	<i>In the interests of encouraging the use of alternative modes of transport with the aim of creating a more sustainable city in accordance with Policies DS3, AC3 and AC4 of the Coventry Local 2017.</i>
<b>6.</b>	Prior to the commencement of the use hereby approved, the flue system and odour extraction system are to be installed and maintained in full accordance with the approved details as set in Noise Assessment (revised 7/8/24), Extraction and Ventilation schedule produced by Blue Flames dated 7th August 2024. 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. Any external ducting shall be colour coated in full accordance with the approved details within one month of its installation.
<b>Reason</b>	<i>To safeguard the amenities of the adjoining occupiers of the development in accordance with Policy DE1 of the Coventry Local Plan 2017.</i>