

Planning Committee Report	
Planning Ref:	PL/2023/0002134/FUL
Site:	8 Station Avenue, Coventry CV4 9HS
Ward:	Westwood
Proposal:	Change of use from hot food to retail and increase in opening hours to 11pm
Case Officer:	Helen Sherratt

SUMMARY

This application seeks full planning permission for a change of use from cafe/hot food takeaway to a convenience store (Use Class E) as well as alternative hours of operation.

It is proposed that the retail unit will operate between the following hours:

06:00 and 23:00 hours, seven days a week.

BACKGROUND

This application is being reported to Planning Committee as it has been called in by Cllr Lapsa on the following grounds:

Neighbour complaints have been received in relation to the illegal sales of vapes and cigarettes from the premises, as well as reports of anti-social behaviour, noise and nuisance. Changing the opening hours would cause further problems.

KEY FACTS

Reason for report to committee:	Councillor Lapsa has called in the application to be heard at Planning Committee.
Current use of site:	Mixed use café with takeaway, with residential at first floor (Sui Generis).
Proposed use of site:	Convenience store with extended hours of operation.
Parking provision	There is no on-site parking provision. The application site is a short walking distance from a privately owned car park serving the local area and the Auction House public house.

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 accords with Policies: DE1, DS3, , AC1, AC2, AC3 and AC4 of the Coventry Local Plan 2016, together with the aims of the NPPF.

SITE DESCRIPTION

The application site is located within Station Avenue Local Centre which is accessed off Tanners Lane, Tile Hill Lane and Station Avenue. The property is 2-storey with commercial use at ground floor and residential use at first floor. The property is located between another retail unit to the north (No.6) and a residential property to the south (No.10). The property is now in operation as Tile Hill Mini Market which operates as a convenience store with no hot food or takeaways being supplied from the premises.

APPLICATION PROPOSAL

This application seeks planning consent for a change of use from a mixed-use café and takeaway to a convenience store, as well as to extend the opening hours of the premises permitted by condition 2 of planning permission FUL/2016/5249 which states that:

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 07:30 and 18:00 hours on Monday to Friday, 08:00 and 18:00 hours on a Saturday, 10:00 and 16:00 hours on a Sunday and at no time on a bank holiday.

The reason for the inclusion of the condition is outlined below:

The premises are closely adjoined by residential properties and the City Council considers it necessary to strictly control the nature and intensity of use of the premises in the interests of the amenities of the area in accordance with Policies BE9 & EM5 of the Coventry Development Plan 2001.

It is proposed to extend the hours of operation to allow longer opening hours as a convenience store. It is proposed that the revised hours of operation would be from 06:00 to 23:00 seven days a week with the potential for restricted deliveries.

A new tenant has taken on the lease and the premises has recently been refitted as a convenience store and commenced trading in June 2023.

PLANNING HISTORY

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

Reference	Description of Development	Decision and Date

S/1978/0984	Change of use from shop to premises for preparation of Chinese food.	Refused 7th March 1978
L/1995/0771	Change of use from residential to retail use and removal of side garage to create a hard standing and service driveway.	Approved 4th October 1995
L/1995/0772	Change of use from residential to A3 hot food takeaway (Dial-a-Pizza – deliveries from premises only), removal of side garage to create a hardstanding and service driveway, and rear single storey extension.	Refused 30th August 1995
S73/2020/2735	Removal / Variation of conditions: 2, opening times, 4, drawings imposed on planning permission FUL/2016/2113 for Change of use from retail (A1) to cafe/take-away (A3 and A5), external extraction flue, alterations to shop front and raised planters granted on 30/9/2016	Approved 15th February 2021
LDC/2013/0638	Application for a Lawful Development Certificate (existing) for a mixed A1, A3 and A5 Use.	Appeal Dismissed 9th October 2014
FUL/2015/2200	Change of use from retail (A1) to mixed use as café and hot food takeaway (A3 and A5) (retrospective).	Appeal Dismissed 3rd September 2016
FUL/2016/2113	Change of use from retail (A1) to café/takeaway (A3 and A5), external extraction flue, alterations to shop front and raised planters.	Approved 26th September 2019
S73/2018/0583	Variation of condition 2- to extend opening hours: imposed on planning permission FUL/2016/2113 for change of use from retail (A1) to cafe/take-away (A3 and A5), external extraction flue, alterations to shop front and raised planters granted on 30/09/2016.	Appeal Dismissed 17th April 2018
DC/2019/0638	Submission of details to discharge Condition 4-fume extraction and odour control equipment: imposed on planning permission FUL/2016/2113 for the change of use from retail (A1) to cafe/take-away (A3 and A5), external	Approved 23rd May 2019

	extraction flue, alterations to shop front and raised planters granted on 30/09/2016	
DC/2018/3262	Submission of details to discharge condition No. 4: External Ducting, imposed on planning permission FUL/2016/2113 for Change of use from retail (A1) to cafe/take-away (A3 and A5), external extraction flue, alterations to shop front and raised planters granted on 30/09/2016.	Refused 5th February 2019
S73/2019/3170	Variation of condition 2 (opening hours) imposed on planning permission FUL/2016/2113 for change of use from retail (A1) to cafe/take-away (A3 and A5), external extraction flue, alterations to shop front and raised planters granted on 30/09/2016.	Approved 22nd June 2020

POLICY

National Policy Guidance

National Planning Policy Framework (NPPF) September 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".

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 2016, which was adopted by Coventry City Council on 6th December 2017.

Relevant policy relating to this application is:

Policy DE1: Ensuring High Quality Design

Policy DS3: Sustainable Development

Policy R3: The Network of Centres

Policy R5: Retail Frontages and Ground Floor Units in defined centres

Policy AC1: Accessible Transport Network Policy AC2: Road Network

Policy AC3: Demand Management

Policy AC4: Walking and Cycling

Supplementary Planning Guidance/ Documents (SPG/ SPD):

Supplementary Planning Guidance/ Documents (SPG/ SPD):
Delivering a More Sustainable City

CONSULTATION

Statutory

No objections have been received from:

Highways Development Management

Non-statutory

No objections subject to conditions from:

Environmental Protection

Neighbour consultation

Immediate neighbours and local councillors have been notified; a site notice was posted on 25th October 2023.

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

1. The current use of the property attracts anti-social behaviour and worsens littering issues.
2. Cars using the convenience store park illegally across the pavement.
3. The business being open 7 days a week with late opening is not necessary.
4. This premises is essentially a vape shop selling a small range of groceries with the area already benefiting from two grocery shops opening as early as 5am.
5. The hours proposed will see an impact on small independent retailers within the community.

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, the impact upon neighbouring amenity and highway considerations.

Principle of development

The National Planning Policy Framework, paragraph 11, states that "Plans and decisions should apply a presumption in favour of sustainable development. For Decision Making, this means:-

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear

reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.” Footnote 8 to paragraph 11 confirms that this includes situations where the local authority cannot demonstrate a five-year supply of deliverable housing sites.

The Coventry Local Plan was formally adopted on 6th December 2017. Since it was adopted, the Government introduced the Standard Method, a standardised way of calculating minimum housing need. As the Local Plan is now more than five years old the Standard Method is now the determining factor when considering local housing need. When using the Standard Method the Council is not able to demonstrate a five-year housing land supply. As such, the tilted balance is engaged and therefore planning permission should be granted, unless “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits” when assessed against the policies of the NPPF taken as a whole.

Policy DS3 of the Local Plan states that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF. It is also stated that applications which accord with policies in the Coventry Local Plan Local Plan will be approved without delay unless material considerations indicate otherwise.

The site lies within Station Avenue Local Centre. Such centres are expected to provide the immediate locality with day -to-day convenience shopping and some service and restaurant uses and social, community and leisure uses as set out within Policy R3 of the Coventry Local Plan 2016.

The principle of retail development has already been established with a long-standing history of commercial use to the ground floor of the premises with the site having been a retail unit (butcher’s shop) prior to its former use as a café/takeaway granted under planning permission FUL/2016/5249. The former use was long standing and unrestricted in terms of hours of use.

The use of the premises as a convenience store (Use Class) would be an entirely appropriate use within this defined centre and in accordance with Policy R3 of the Coventry Local Plan 2016 and would not appear incongruous against the surrounding context. As such, the principle of the development is acceptable subject to the assessment of material considerations as discussed below.

Impact on residential amenity

Policy DE1 of the Local Plan states that all development proposals must respect and enhance their surroundings and positively contribute towards

the local identity and character of an area.

In addition, Paragraph 130 (f) of the NPPF states that decisions should ensure that developments; “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 users⁴⁹; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience”.

By virtue of there being no internal or external alterations to the property it is not considered that there will be any material adverse impacts in terms of overbearing impact, loss of light and loss of privacy on the occupiers of neighbouring properties.

The Officer’s recommendation is to restrict the hours of operation from 06:00 until 23:00 for a temporary period of one year. This has been agreed with the applicant and will allow for the site to be adequately monitored by colleagues within Environmental Protection and assess any complaints received relating to noise and disturbance. This will then allow the Local Planning Authority the opportunity to re-evaluate the proposal after a year should the occupants wish to proceed in this manner. If no further application was made to continue with the extended hours of operation, then they would revert to those previously allowed. It should be noted that the premises operated as a retail unit with no restriction on hours for a number of years as a butchers shop. The restriction on hours were only imposed when the use changed to a café with associated take-away use due to the nature of use and the location next to a residential property.

Whilst it is noted at the application lies within a defined centre, the site lies near a number of residential properties, as well as a residential apartment located at the first floor directly above the premises. As part of the previously withdrawn planning application (reference PL/2023/0001385/RVC), several negotiations had had been ongoing with colleagues within Environmental Protection who raised concerns in relation to the impacts of the occupiers of the neighbouring property. As such, the proposed opening hours were decreased from 6:00 to 24:00 to 6:00 to 23:00, as proposed as part of the current planning application, as well as restricting the consent for a period of one year to allow for the site to be monitored by colleagues within Environmental Protection and assess any complaints relating to noise and disturbance. This will then allow the Local Planning Authority the opportunity to re-evaluate the proposal after a year should the occupants wish to proceed in this manner. On this basis, the Environmental Protection team have no objections to the proposal.

This application is therefore considered to be in accordance with Policy DS3 and DE1 of the Local Plan, and Section 12 of the NPPF.

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.

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It is stated within the car parking standards that a retail unit falling within (Use Class E) would need to provide 1 parking space per 25m² with 1 cycle parking space to be provided per 200m². This would give a parking requirement of 2no car parking spaces, with no cycle parking spaces being required.

Whilst no parking provision is provided at the property, the application site is a short walking distance from a privately owned car park serving the local area and the Auction House PH and although the provision of double yellow lines prevents car parking outside of the retail unit, within close proximity of the junction, it is considered that there are sufficient options available within the locality to prevent the need for illegal parking within the centre. Given that the current use is as a café/take-away with no parking, the nature of use is not considered to have any impact on parking provision.

Furthermore, the Highways Authority have been consulted on the application and confirmed that they have no objection to the proposal.

It is therefore considered that the application would be in accordance with Policy AC3 and Appendix 5 of the Local Plan.

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:
eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
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

The proposed development is considered to be acceptable in principle and will not result in any significant impact upon neighbour amenity or highway safety, subject to relevant conditions to allow for a temporary extension of opening hours. The reason for Coventry City Council granting planning permission is because the development is in accordance with: Policies S3, S5, DE1, DS1,

AC1, AC2, AC3 and AC4 of the Coventry Local Plan 2016, together with the aims of the NPPF.

CONDITIONS/REASONS

<p>1.</p>	<p>The permission hereby granted is in relation to the following approved plans: Planning Statement Site and Location Plans DWG AL(P)00 Location Plan Covering Letter Previous and Current Ground Floor Plans</p>
<p>Reason</p>	<p><i>For the avoidance of doubt and in the interests of proper planning.</i></p>
<p>2.</p>	<p>Prior to 31st December 2024, no customers shall be permitted to be on the premises other than between the 06:00 hours and 23:00 hours on any day and no deliveries shall be made to or from the premises other than between 07:30 hours and 20:00 hours Mondays to Saturdays, and between 10:00 hours and 16:00 hours on Sundays and Bank/Public Holidays. Thereafter, no customers shall be permitted to be on the premises and no deliveries shall be made to or from the premises other than between the hours of 07:30 and 18:00 hours on Monday to Friday, 08:00 and 18:00 hours on a Saturday, 10:00 and 16:00 hours on a Sunday and at no time on a bank holiday.</p>
<p>Reason</p>	<p><i>The premises are closely adjoined by residential properties and the City Council considers it necessary to strictly control the nature and intensity of use of the premises and allow extended hours for a temporary period only in the interests of the amenities of the area in accordance with Policy DE1 of the Coventry Local Plan 2016.</i></p>