

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 25 JULY 2024
REPORT OF THE ASSISTANT DIRECTOR (PLANNING)

6/2023/2449/FULL

HANDSIDE POST OFFICE MARSDEN ROAD WELWYN GARDEN CITY AL8 6YG

CHANGE OF USE OF FORMER POST OFFICE TO TAKE AWAY (SUI GENERIS)

APPLICANT: MR GRIEG HUTCHINSON

1 Site Description

- 1.1 The application site is located to the south of Marsden Road in the west of Welwyn Garden City. The site comprises of a single retail unit which is currently vacant but has previously been used as a Post Office. The site is located within the Conservation Area.

2 The Proposal

- 2.1 Planning permission is sought for the change of use of an existing commercial unit from Class E to sui generis, including the installation of an extraction flue to the rear of the building and internal reconfiguration to accommodate the new takeaway business.
- 2.2 It should be noted that the proposals have been amended during the course of the application to include details of the proposed plant location and removal of the alterations initially proposed to the shopfront.

3 Reason for Committee Consideration

- 3.1 This application is presented to the Development Management Committee because it has been called-in by Councillor Thompson and Councillor Moore.
- 3.2 The reasons for the Call-In are:
- 1) Attracted unusually high level of public interest.
 - 2) Raises sensitive planning issues in the Conservation Area and vicinity close to two schools.
 - 3) Impact upon neighbour amenity from the proposed takeaway use and its opening hours.

4 Relevant Planning History

- 4.1 The planning history is summarised below:

Application Number: E/1955/1408/
Decision: Granted

Decision Date: 17 November 1955
Proposal: Three shops, three garages and store

Application Number: N6/2002/0340/FP
Decision: Granted
Decision Date: 29 April 2002
Proposal: Installation of automated teller machine I

Application Number: N6/2006/0464/FP
Decision: Refused
Decision Date: 02 June 2006
Proposal: Two storey rear extension and first floor extensions and alterations to form residential accommodation

Application Number: N6/2007/0751/FP
Decision: Refused
Decision Date: 10 July 2007
Proposal: Erection of 2 storey rear extension & insertion of rooflights & dormer windows to form residential accommodation

Application Number: N6/2007/1964/FP
Decision: Granted
Decision Date: 14 February 2008
Proposal: Partial change of use and erection of 2 storey rear extension & insertion of rooflights & dormer windows to form residential accommodation

Application Number: N6/2014/1809/FP
Decision: Withdrawn
Decision Date: 24 October 2014
Proposal: Erection of two storey rear extension, three dormer windows, insertion of five rooflights and partial change of use to form a residential dwelling

Application Number: N6/2015/0160/FP
Decision: Granted
Decision Date: 26 March 2015
Proposal: Partial change of use of Post Office (Class A1) to residential (Class C3) and erection of two storey rear extension and insertion of rooflights and dormer windows to form residential accommodation

Application Number: 6/2015/2315/FULL
Decision: Granted
Decision Date: 08 January 2016
Proposal: Conversion of existing roof space to habitable space, insertion of windows, door and roof lights to Nisa Store and alterations to Post Office building

Application Number: 6/2018/2454/FULL
Decision: Granted
Decision Date: 10 December 2018
Proposal: Internal alteration to the subdivision between two existing shops (A1) and demolition of the existing garages to provide open parking spaces in the rear yard

Application Number: 6/2018/2426/FULL

Decision: Granted

Decision Date: 18 December 2018

Proposal: Conversion of the roof space to provide 3x one bed studio flats and the erection of a first floor rear extension to provide 1x one bed studio and storage area for the shops (A1) below as well as ground floor internal alterations with associated parking arrangements.

5 Relevant Planning Policy

- 5.1 National Planning Policy Framework (NPPF)
- 5.2 Welwyn Hatfield Borough Council Local Plan 2016-2036 (October 2023) (Local Plan)
- 5.3 Supplementary Design Guidance 2005 (SDG)
- 5.4 Supplementary Planning Guidance, Parking Standards 2004 (SPG)
- 5.5 Interim Policy for Car Parking Standards and Garage Sizes 2014 (Interim Car Parking Policy)

6 Site Designation

- 6.1 The site is within the settlement boundary of Welwyn Garden City as designated in the Welwyn Hatfield Borough Council Local Plan 2016-2023.

7 Representations Received

- 7.1 The application was advertised by means of neighbour notification letters and a site notice. In total, 42 representations have been received (34 objections, 7 in support and 1 comment). All representations received are published in full on the Council's website and are summarised below:

Objection

- Out of character development.
- Failure to market existing use.
- Increase traffic in the area, harm to highway safety.
- Insufficient parking - parking already an issue in the area.
- Loss of privacy from customers to local residents.
- Danger to cyclists, pedestrians and wheelchair users.
- Disruption to neighbouring properties from noise, smells, light, traffic and pollution.
- Increased risk of anti-social behaviour and late night loitering.
- Additional littering in the area.
- Businesses currently close by 8pm.
- The location in relation to existing schools is inappropriate.
- Fast food shop would encourage unhealthy eating for school children.
- Adversely affect the value and future sale properties in the locality.
- Potential vermin issues with unfinished food in litter bins.
- Inadequate consultation.

Support

- Bringing vacant shop unit into use.
- New businesses to the area should be encouraged.
- Site is within easy walking distance of a large residential area – less need to travel by car.
- Takeaway use commonly found within other local centres in the borough.

8 Consultations Received

8.1 The following consultees have responded advising that they have no objections to the proposal in principle, subject to conditions being applied:

- HCC Transport Programmes and Strategy
- Welwyn Hatfield Borough Council Public Health and Protection Officer
- Place Services Conservation Officer.

9 Analysis

9.1 The main planning issues to be considered in the determination of this application are:

- 1. Principle of development**
- 2. Quality of design and impact upon Heritage Assets**
- 3. Residential amenity**
- 4. Highways and parking considerations**
- 5. Other considerations**
 - i. Landscaping**
 - ii. Refuse and recycling**
 - iii. Other matters**

1. Principle of development

9.2 The National Planning Policy Framework (NPPF) states planning policies ‘should promote and support the development of under-utilised land and buildings’ (Para.124 (d)) and ‘support development that makes efficient use of land’ (Para.128).

9.3 Policy SP1 of the Local Plan seeks to bring about sustainable development in the borough by applying the following principles:

- The need to plan positively for growth in a way which supports economic growth, increases the supply of housing and helps to reduce social and health inequalities in the borough - whilst recognising environmental and infrastructure constraints.
- That new development should contribute to the creation of mixed and sustainable communities which are well planned, promote healthy and active lifestyles, are inclusive and safe, environmentally sensitive, accessible, culturally rich, vibrant and vital, well served, and built to high design standards reflecting local character.
- That the location of new development should deliver a sustainable pattern of development which prioritises previously developed land; minimises the need

to travel by directing growth to those areas with good transport networks which are well served by jobs, services and facilities; protects areas of highest environmental value; and avoids areas of high flood risk.

- That the natural and heritage assets of the borough should be protected and enhanced and its natural resources used prudently.
- That adaptation and mitigation principles relating to climate change are incorporated into the design and construction of new development which include energy and water efficiency measures, the use of low carbon and renewable energy, the provision of green infrastructure and sustainable drainage systems (SUDs).

9.4 The site is located within the town of Welwyn Garden City as defined in the Local Plan. This site has previously been developed and currently comprises a single storey commercial unit. Policy SP3 of the Local Plan states that, consistent with the settlement hierarchy, the primary focus for new development will be in and around the two towns of Welwyn Garden City and Hatfield where accessibility to strategic transport networks and public transport is good and the greatest potential exists to maximise accessibility to job opportunities, shops, services, and other facilities, and to create new neighbourhoods with supporting infrastructure.

9.5 Policy SADM4 is relevant in this case. This policy states that the Council support proposals for changes of use within Small Neighbourhood or Small Village centres where:

- i. The loss would not have a detrimental impact on the provision of Class E retail within the wider neighbourhood or village whose centre the premise is within;
- ii. The centre would remain in a predominantly Class E retail use;
- iii. The proposal would add to the vitality and viability of the centre.

9.6 It is noted that Policy SADM4 also states that 'Planning permission will only be granted as an exception to the criteria in this policy where there are overriding benefits to the overall vitality and viability of the relevant Town, Neighbourhood or Village Centre. It will also need to be demonstrated through active and extensive marketing over a period of at least 12 months that there is a lack of demand for a Class E retail use in that location'.

9.7 The Local Plan sets out that 'Neighbourhood Centres are generally hubs of shops and other services and facilities which help to serve the day to day needs of a local community'. Paragraph 8.17 of the Local Plan goes on to say that 'Small Neighbourhood and Village Centres generally comprise 2 to 10 retail outlets and therefore have a smaller range of facilities, and in most cases their proximity to Large Neighbourhood Centres or a Town Centre means that they serve a largely convenience function. All have a convenience store or newsagent and whilst some have facilities such as pubs, these centres do not generally have many services'.

9.8 The application site is identified as being located in Handside Small Neighbourhood Centre in Policy SADM4 of the Local Plan, which covers 179 Handside Lane, two commercial units that front onto Marsden Road, a courtyard area and some on-road parking spaces. It was observed during a site visit that

the neighbourhood centre currently comprises of the Nisa Local shop, a hair salon (previously a butcher's shop), and the vacant post office building.

- 9.9 In this case, whilst one of the three units would be converted to a Sui Generis use, the frontage of the neighbourhood centre would remain largely in a Class E use in terms of floor area, the size of the shopping frontage and the number of units. The main shopping unit, the Nisa Local store and post office within it would be unaffected, therefore the neighbourhood centre would continue to provide a convenience store function for the local residents. It is also considered that the proposed use as a takeaway (Sui Generis) would not be incompatible with the adjacent commercial properties, nor detrimental to the availability of Class E retail within the surrounding area as there are no other similar uses in the locality. Consequently, the proposal would meet criteria (i) and (ii) of Policy SADM4. Furthermore, given its small-scale nature and distance from the town centre, the proposed change of use would not have an unacceptable effect on the vitality and viability of the centre, complying with criteria iii). In this instance, given that the proposal is found to meet the criteria specified in Policy SADM4, there would not be the need for the applicant to demonstrate through extensive marketing that there is a lack of demand for the Class E retail use of the application site as an exception to the policy. Moreover, the proposal would revitalise a vacant unit and bring additional footfall to the neighbourhood Centre, thereby contributing to its vitality and viability which is supported.
- 9.10 Policies SP6 and SADM7 of the Local Plan also seek to guard against the loss of existing community facilities and support the enhancement of existing facilities. The supporting text to Policy SP6 (Table 3) lists community services and facilities and this includes post offices. It is understood that the pre-existing post office use of the unit had been vacant for a number of years due to the moving of the business into the Nisa Local store in April 2019. Therefore, the proposal would not result in the direct loss of an existing community facility and as such the development would comply with Policies SP6 and SADM7 of the Local Plan.
- 9.11 For the above reasons, the proposal would not conflict with the National Planning Policy Framework or Policy SADM4, SADM7 and SP6 of the Local Plan in this regard.

2. Quality of design and impact upon Heritage Assets

- 9.12 Section 72 of the Listed Buildings and Conservations Areas Act (1990) states that 'special attention shall be paid to the desirability of preserving or enhancing the character or the appearance of that area'. Section 16 of the NPPF 'Conserving and enhancing the historic environment' is broadly consistent with Policy SADM15 'Heritage' of the Local Plan. Also of relevance, and consistent with the NPPF, is Policy SP1 which states the need to deliver sustainable development whilst ensuring development is built to high design standards reflecting local character. Policy SP9 emphasizes this need to deliver a high-quality design that fosters a positive sense of place, responding to the character and context of the surrounding area. Paragraph 203 of the NPPF states that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness

- 9.13 Paragraph 205 of the NPPF outlines that, when considering the impact of a proposed development on the significance of a designated heritage asset, 'great weight' should be given to the asset's conservation.
- 9.14 Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 9.15 Paragraph 212 of the NPPF notes that Local Planning Authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 9.16 Local Plan Policy SADM15 is consistent with the NPPF but adds that where successive small-scale changes that lead to a cumulative loss or harm to the significance of the asset or historic environment should be avoided. The property is located within the Welwyn Garden City Conservation Area.
- 9.17 In this case, the changes proposed to the principal elevation of the application building are limited to the redecoration of the existing shopfront which is currently in a state of disrepair. It is noted that the D&A Statement mentions a replacement shopfront however this element has been removed from the proposals. The work proposed now involves repainting/staining the existing façade and the replacement of broken tiles with matching tiles. This part of the scheme is considered acceptable in principle and would improve the appearance of the current dilapidated shopfront. However, given that no further details have been provided with this application, it would be reasonable and appropriate to secure sample materials via condition to ensure the proposal adequately respects the character and context of the locality.
- 9.18 In terms of the proposed extraction equipment, this would be mounted to the existing flat roof at the rear of the application building. Due to its discrete location at the back of the property amongst existing air conditioning plant and equipment, the impact would be very limited from public vantage points, thus ensuring that the character of the existing building and surrounding area would be maintained. However, further technical details of the proposed extraction plant and its appearance are required which can be reasonably secured by condition. Accordingly, subject to these conditions, the development would not detract from the character and appearance of the Conservation Area.
- 9.19 The proposed internal alterations to the building involve a new staff serving area and the installation of a new kitchen. No concerns are raised to the minor internal reconfigurations to facilitate the change of use of the premises.
- 9.20 Whilst the proposed plans indicate new signage at the property, a separate application for advertisement consent would need to be submitted as this is subject to a separate consent process within the planning system. An informative would be included as part of any planning application granted to ensure that a separate application is submitted.

9.21 To conclude, it is considered that the proposal would not have a detrimental impact on the character and appearance of the existing building or the surrounding Conservation Area. Accordingly, subject to the imposition of the above conditions, the proposed development would be of a good standard of design which has paid special attention to the desirability of preserving the character or appearance of this application site and this part of the Welwyn Garden City Conservation Area. Therefore, it would comply with the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, National Planning Policy Framework, Policies SP9 and SADM15 of the Local Plan and the Supplementary Design Guidance 2005.

3. Residential amenity

9.22 The NPPF is clear that planning should be a means of finding ways to enhance and improve the places in which people live their lives. This means that authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policies SP9, SADM11 and SADM18 of the Local Plan seek to ensure that no new development would adversely affect the existing area either in terms of any built form or in terms of the operation of any uses from noise and vibration pollution.

9.23 By virtue of the nature of the proposal resulting in minimal external alterations to accommodate the change of use, the proposed development is not considered to detrimentally impact upon neighbouring amenity in terms of a loss of light, over dominance or a loss of privacy/outlook.

9.24 In terms of noise and disturbance, SADM18 of the Local Plan seeks to ensure that no new development would cause disturbance to people or the natural environment due to noise and/or vibration pollution. Noise from new plant and equipment must be carefully managed given that there are residential properties within proximity to the proposed take-away.

9.25 Turning to the potential disruption for the additional comings and goings from the users of the proposed takeaway, it is proposed for the takeaway to open from 11am until 10pm Monday to Fridays, 11am to 10.30pm Saturdays and 12pm to 7pm Sundays. The proposal has been assessed by Council's Public Health and Protection team and no objections have been raised to the hours of operation in principle. Therefore, it is not considered that the proposed takeaway would be open during unreasonable hours. However given the location of the site within an established residential area, it would not be considered unreasonable in this instance to restrict the hours of opening of the business by condition to ensure it does not operate beyond these times. It is also recommended that a scheme to mitigate noise from new plant and equipment is submitted in the event of an approval to ensure that the development would be satisfactory. Subject to condition, the proposed hot food takeaway service would not significantly impact upon the amenity of neighbouring properties in respect of noise and disturbance.

9.26 In terms of noise from construction works, whilst the Council's Public Health and Protection Team have recommended a construction noise condition, in this case, due to the minimal scale of the development, together with the temporary nature of the noise impact from construction, it is not considered to be appropriate or reasonable to restrict the hours of construction by imposing a planning condition and information can instead be added as an informative if permission is granted.

- 9.27 It is noted that no lighting is proposed as part of this application. Should there be the need for any external lighting to serve the premises, full details can be secured via a suitably worded condition where further assessment of its impact can be made.
- 9.28 As for the potential impact from odours generated by the proposed kitchen extract system, the Council's Public Health and Protection Team have recommended that a condition be imposed to require details of any air ventilation, extraction and odour control systems to be provided in connection with the development prior to their installation. Furthermore, the condition also requires an odour impact assessment to be undertaken which looks at the grease content and odour content of the food and an odour abatement system to be installed as part of the overall kitchen extract system to ensure that odours would be sufficiently mitigated. Finally, the condition would require that the system is regularly cleaned and maintained to control odours as effectively as possible.
- 9.29 In summary, subject to the aforementioned conditions, the proposal is not considered to have an unduly detrimental impact on the amenity of neighbouring occupiers in terms of loss of light, outlook, privacy, odour or noise. The proposal would therefore be in accordance with the NPPF, Policies SP9, SADM11 and SADM18 of the Local Plan and the SDG in this regard.

4. Highways and Parking Considerations

- 9.30 In terms of parking, Paragraph 111 of the NPPF states that if setting local parking standards, policies should take into account the accessibility of the development, the type, mix and use of the development, availability of and opportunities for public transport, local car ownership levels and the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.
- 9.31 Policy 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.32 Policy SADM12 of the Local Plan states that the type and quantum of vehicle and cycle parking provided within development proposals will be informed by the standards set out in the Council's parking standards taking account of:
- a. The site's location and accessibility to public transport, services and facilities;
 - b. The nature and degree of parking demand likely to be associated with the development and opportunities for shared parking; and
 - c. The need to promote more sustainable forms of travel within the borough.
- 9.33 The Parking Standards Supplementary Planning Guidance (SPG) use maximum standards and are not consistent with the NPPF and are therefore afforded less weight. In light of the above, the Council have produced an interim Policy for Car Parking Standards that states that parking provision will be assessed on a case-by-case basis and the existing maximum parking standards within the SPG should be taken as guidance only. This means that higher or lower car parking standards than those set out in the SPG can be proposed and determined on a

case-by-case basis taking into account the relevant circumstances of the proposal, its size context and its wider surroundings.

- 9.34 Concerns have been raised by neighbouring properties in regards to parking provision and highway safety.
- 9.35 In relation to parking standards for a hot food take-away, the Council's adopted parking standards require 1 space per 3sqm of floorspace of public area plus 3 spaces per four employees. The application form confirms that there will be 1 full-time and 3 part-time members of staff working at the site, which is equivalent to 3 full-time employees. This equates to the need for 3 staff parking spaces. According to the submitted plans, the proposed public floor area measures approximately 20.5sqm, which equates to the need for 7 parking spaces for customers. This results in a total parking requirement of 10 on-site spaces when considered against the maximum standards.
- 9.36 The application site does not currently have any allocated on-site car parking spaces, and none are proposed as part of the proposal. The development would therefore represent a significant under provision of off-street parking. Whilst it is acknowledged that this is not in accordance with the maximum standards within the SPG, it is important to note that the parking standards should be taken as guidance only and each case should be assessed on its own merits. In addition, it is important to draw comparison between the existing use and the proposed use. The Parking Standards do not specify what parking requirements are for post offices however based on the type of goods they sell along with the post office function, it would generally be considered to fall within the category of 'Small food shops'. In this instance the pre-existing parking requirement would be 1 space per 30sqm of the application site which equates to 2 parking spaces. Whilst it is acknowledged that this is significantly less than the requirement generated by the proposal, it is important to note that the existing use of the site as a post office falls within Class E which allows for many different uses to be accommodated at any time without the need for planning permission. This includes uses such as restaurants/cafes which would require 1 space per 5 sqm of dining area plus 3 spaces per four employees. Therefore hypothetically the proposed use would not be too dissimilar (in terms of parking requirement) to certain uses that could be operate at the site without the need for planning permission.
- 9.37 In this case, there are short stay parking facilities along the road directly outside the neighbourhood centre and the nature of the takeaway use would continue to attract users on a short-term basis. As such, it is not considered that the change of use would detrimentally impact upon the existing parking arrangements of the area or be significantly different to the existing situation, should the unit operate under a Class E use. Additionally, on street parking in nearby streets is permitted outside the hours of 08:00 and 18:00 Monday to Saturday and it is likely that the majority of customers would attend the premises in the evenings when parking pressures for on-street parking have reduced. Whilst there is generally expected to be additional on-street parking occurring during off peak hours from people returning home from work, traffic flows and the number of road users (including those parking) are also comparatively less during these times. Moreover, the purpose of a small neighbourhood centre is to serve the immediate surrounding area, therefore visits to the premises is likely to consist more of local trips with vehicle travel from further afield being less common. With this in mind and given

the temporary nature of the parking from customers, it is not considered to result in significant change to the parking demand for the area.

- 9.38 Furthermore, a bus stop is located very close to the site on Handside Lane, which offers an alternative method of transport to and from the shop. The site's sustainable location also allows customers living locally to visit the site on foot. Consequently, it is not considered that the proposal would significantly increase parking stress in the area to warrant a refusal in this instance.
- 9.39 In terms of cycle parking, 1 long term cycle space should be provided per 10 full time members of staff. It is noted that there is space for cycle parking within the service yard to the rear of the site. Full details have not been provided with respect to cycle storage, therefore a condition is recommended to secure this.
- 9.40 The Highway Authority were consulted and considered that the development would be unlikely to be of a scale that would generate any extra movements which would ultimately lead to demonstrable harm to the highway network in terms of free flow and capacity. Therefore, no concerns were raised.
- 9.41 In term of servicing and deliveries associated with the proposed change of use, it is noted that there is a service yard to the rear of the application site with existing access off Marsden Road, which is within the ownership of the applicant. There are no changes proposed to the current servicing and access arrangements at the site. Therefore, it is not considered that there would be an undue impact on the public highway in this respect.
- 9.42 As such, whilst there is a shortfall of on-site parking, the proposal would not, on balance, result in unduly detrimental harm to highway safety of the area to the extent that this would warrant a refusal of planning permission. No objections are therefore raised in regards to the SPG Parking Standards; the Council's Interim Policy for Car Parking Standards; Policies SADM2 and SADM12 of the Local Plan and the NPPF.

5. Other considerations

i) Landscaping

- 9.43 Landscaping is important in order to protect and maintain, or ideally enhance, the existing character of the area and to reduce the visual and environmental impacts of the development. It is important that an appropriate balance between hard and soft landscaping is maintained, and the Council will aim to ensure that a proportion of the site frontage is retained as landscaped 'greenery' to reduce the visual prominence of hard surfacing and parked vehicles. Policy SADM16 of the Local Plan sets out that proposals will be assessed for their impact on landscape features to ensure that they conserve or improve the prevailing landscape quality, character and condition. Furthermore, Policy SP9 notes that proposals should make space for nature, to enable the movement of wildlife through the development, and protect and improve the connectivity of habitats at the wider landscape scale. Policy SP10 additionally states that new and existing habitat and landscaping should be incorporated into the layout and design of proposals. Landscaping can protect and enhance the visual character of the area and reduce the visual and environmental impacts of a development.

9.44 This application seeks planning permission for the change of use of the existing building, and no alterations are proposed to the existing landscaping at the site under this scheme. Therefore, no concerns are raised with respect to landscaping.

ii) Refuse and Recycling

9.45 Policy SADM12 of the Local Plan states that appropriate provision of service areas and refuse storage and collection areas should be made according to the nature of the development. Such areas and access to them should be appropriately sited and designed to ensure they can:

- a. Perform their role effectively without prejudicing or being prejudiced by other functions and users;
- b. Maintain an attractive and coherent street scene and protect visual amenity; and
- c. Avoid creating risk to human health or an environmental nuisance.

9.46 In this case, the submitted plans indicate that there would be an area at the rear of the unit available for the storage of waste and recycling bins to serve the takeaway use, which is acceptable in principle. However, due to the lack of details, it is considered necessary to require further information on the refuse and recycling facilities for the proposed use to be submitted and approved by the Local Planning Authority to ensure that a suitable provision is made. This can be appropriately secured via condition.

9.47 In terms of the concerns raised by residents with respect to littering, details of waste management measures comprising bins for food waste, litter and materials recycling for customers can be reasonably secured by condition to ensure measures are in place to minimise waste generation and maximise the on-site reuse and recycling of waste materials.

9.48 Subject to the imposition of the aforementioned condition, the proposal is considered to comply with Policy SADM12 of the Local Plan and the NPPF.

iii) Other matters

Health concerns

9.49 Concerns have been raised to the proximity of the proposed takeaway use being within 400m of three schools (Stanborough, Lakeside & Applecroft) and the subsequent health implications to school children that this would have in terms of unhealthy eating. When considering the walking distance from the entry points to the schools in question, the application site is found to be approximately 600m from Stanborough School and 550m from the away from Applecroft School. Whilst the application site is within 400m from Lakeside School (350m away), there is no local or national policy requirement for takeaway developments to be located, within a specific radius of all primary and secondary schools, nor is there any evidence to suggest that there is a prevalence of obesity or health concerns amongst schoolchildren in the surrounding area of the application site that needs addressing. Furthermore, the proposal would not result in the concentration and clustering of hot food takeaways in a single area, as the nearest takeaway use is located within the town centre. As such, no concerns are raised in this regard.

Public consultation

9.50 Whilst concerns have been made by residents to the extent of consultation by the local authority, in this case, neighbour letters to those directly adjoining the application site were sent and site notices were displayed on a lamppost outside of the premises for a period of 21 days. Press adverts were also published in the local newspaper. Therefore, the consultation requirements of the Council have been sufficiently fulfilled in this instance.

10 Conclusion

10.1 In conclusion, the hours of opening of the business, and the noise and odours arising from it could be suitably controlled by condition such that the amenities of the surrounding properties would not be unduly harmed, and subject to approval of the details of the materials, the character and appearance of the Conservation Area would not be adversely affected either.

10.2 The proposal would not therefore have a significant adverse impact upon the character and appearance of the area, adjoining occupiers living conditions, landscape features or highway safety. Accordingly, and for the reasons given, the proposal is recommended for approval.

11 Recommendation

11.1 It is recommended that PLANNING PERMISSION BE GRANTED subject to the following conditions:

PRIOR TO ABOVE GROUND DEVELOPMENT

1. No above ground development in any phase of the development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby granted have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials and subsequently, the approved materials shall not be changed.

REASON: In the interest of the appearance of the development, in accordance with Policy SP9 of the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

2. Prior to any above ground level development beginning, the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to a scheme for the extraction and filtration of cooking or other fumes, including information on odour control systems and procedures. Such details must include cleaning schedules and a report confirming that the proposed installation setup and filters are sufficient for the proposed kitchen use and that external odours will be sufficiently mitigated. The proposed system will need to adhere to the Defra guidance on the Control of Odour and Noise from Commercial Kitchen Extract Systems (or a similar alternative to be agreed with the Local Planning Authority). The development must not be carried out other than in accordance with the approved details and shall be maintained in accordance with the manufacturer's instructions to ensure its continued satisfactory operation.

REASON: To protect the amenity of residential occupiers in accordance with Policy SADM18 of the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

3. Prior to the installation of any plant and equipment associated with the use hereby permitted, the applicant shall submit to, for approval in writing by the Local Planning Authority, details of any air ventilation, extraction and odour control systems. Such details must include the height, position, design and materials of any chimney or extraction vent to be provided in connection with the development.

The system must be maintained and cleaned regularly to maintain odour control and ensure that the requirements of this condition are always complied with.

REASON: To ensure a satisfactory standard of development in the interests of maintaining the character and visual amenity of the area and the amenity of adjoining occupiers, in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

4. Prior to the installation of any plant and equipment associated with the use hereby permitted, the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to a scheme to mitigate noise from new plant and equipment. The impact of new plant and equipment should be assessed in accordance with BS4142: 2014+A1:2019. The noise level from new plant and equipment must not exceed the background noise level (LA90), at any time, at the nearest residential receptor location. The noise level must be achieved with the plant equipment running at a typical maximum load setting.

The plant shall be serviced regularly in accordance with manufacturer's instructions and as necessary to ensure that the requirements of the condition are always maintained.

REASON: To protect the residential amenity and living conditions of nearby occupiers in accordance with Policy SADM18 of the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

5. Prior to the installation of any external lighting, a scheme of external lighting installations (including vertical lux diagrams which show potential light trespass into windows of nearby residential properties) shall be submitted to and approved in writing by the Local Planning Authority. This scheme must meet the requirements within the Institution of Lighting Professionals guidance notes for the reduction of obtrusive lighting. Thereafter the development shall accord with the approved details.

REASON: To protect the amenity of residential occupiers in the near vicinity of the development in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

PRIOR TO OCCUPATION

6. Prior to occupation, details of waste management measures comprising bins for food waste, litter and materials recycling for both the business use and its customers shall be submitted to and approved in writing by the Local Planning

Authority. Subsequently the refuse and recycling bins shall be brought into use and retained for this purpose.

REASON: To ensure measures are in place to minimise waste generation and maximise the on-site reuse and recycling of waste materials, in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

7. The use of the premises for the purposes hereby permitted shall not operate other than between the hours of 11:00 and 22:00 Monday to Fridays, 11:00 and 22:30pm Saturdays and 12:00 and 19:00 Sundays and Bank Holidays. No customer shall be permitted to be on the premises outside of these times.

REASON: To protect the residential amenity of adjoining occupiers in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

8. Prior to the first occupation of the development hereby permitted, full details (on a suitably scaled plan) of the proposed cycle parking storage facilities shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the approved details must be fully implemented in accordance with the approved details and thereafter retained for this purpose.

REASON: To ensure the provision of adequate cycle parking in the interests of encouraging the use of sustainable modes of transport in accordance with Policies SADM2 and SADM12 of the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

DRAWING NUMBERS

9. The development/works shall not be started and completed other than in accordance with the approved plans and details:

Plan Number	Revision Number	Details	Received Date
AT1143-01	B	Existing Site Plan and Location Plan	1 March 2024
AT1143-02	B	Existing Plans and Elevations	1 March 2024
AT1143-03	B	Proposed Plans and Elevation	1 March 2024
AT1143-04	B	Proposed Site Plan and Elevations	1 March 2024
AT1143-05	B	Roof Plan and Elevations	1 March 2024

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 of the National Planning Policy Framework and

material planning considerations do not justify a decision contrary to the development plan.

INFORMATIVES

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water interest etc. Neither does this permission negate or override any private covenants which may affect the land.
2. In addition, and separate to your planning permission, for the majority of schemes, you are required by law to appoint a building regulator who will inspect your property at various stages during the course of your building project. This is to ensure it is compliant with the Building Regulations and the Building Act 1984. The checks the building regulator will carry out include, but are not limited to, the structure, foundations, fire precautions and escape routes, electrical and plumbing compliance and other issues such as drainage and insulation. The objective of these checks is to ensure that your building is safe to live in, accessible and environmentally sustainable. Once all build stages are checked and the works are finished, a Completion Certificate is issued confirming that these objectives have been met. You will also need the Completion Certificate, should you sell the property, as it will confirm to future owners that the work has been carried out in compliance with the Regulations. As the owner of the property, you are responsible for Building Regulations compliance so we would urge you to decide which regulator to use, as opposed to leaving your builder or architect to make the choice. This is so that you can be sure the building regulator is truly independent and working to protect you from any breach or omission during the works. Hertfordshire Building Control Limited are a Company wholly owned by eight local authorities in Hertfordshire including Welwyn Hatfield Borough Council. Please contact them on 01438 879990 or at buildingcontrol@hertfordshirebc.co.uk to discuss the process and all that is involved. Or alternatively refer to the Homeowner Information section on their website at www.hertfordshirebc.co.uk
3. All new food businesses must register with the environmental health team. It is also wise to consult with specific food officers to assist in terms in internal layout which is likely to assist with safe food hygiene practices. Please contact the team for advice on 01707 357 242 or email e.health@welhat.gov.uk
4. Please note that a separate application would be required for advertisement consent.
5. It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website:
<https://www.hertfordshire.gov.uk/services/highways-roadsand-pavements/highways-roads-and-pavements.aspx>


6. The applicant is advised that all areas for parking, storage, and delivery of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website:
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-anddeveloper-information/development-management/highways-developmentmanagement.aspx> or by telephoning 0300 1234047.
7. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website:
<http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.
8. All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of:
8.00am and 6.00pm on Mondays to Fridays
8.00am and 1.00pm Saturdays
and at no time on Sundays and Bank Holidays
The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times
9. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturers' instructions.
All compressors shall be sound reduced models, fitted with properly lined and sealed acoustic covers, which shall be kept closed whenever the machines are in use. All ancillary pneumatic percussive tools shall be fitted with mufflers or silencers of the type recommended by the manufactures.
All machines in intermittent use shall be shut down during intervening periods between works, or throttled down to a minimum. Noise emitting equipment, which is required to operate continuously, shall be housed in suitable acoustic enclosures.
Items of plant and equipment shall be maintained in good condition so that extraneous noise from mechanical vibration, squeaking or creaking is reduced to a minimum.
Any pile driving shall be carried out by a recognised noise reducing system.
Where practical, rotary drills and bursters, actuated by hydraulic or electric power shall be used for excavating hard material.
In general, equipment for breaking concrete and the like, shall be hydraulically actuated.
'BS 5228 Noise Control on Construction Sites' should be referred to for guidance in respect of all work carried out by the developer, their main contractor and any sub contractors.
Any emergency deviation from these conditions shall be notified to the Council without delay.
10. All efforts shall be made to reduce dust generation to a minimum.

Stock piles of materials for use on the site or disposal that are likely to generate dust, shall be sited so as to minimise any nuisance to residents or neighbouring businesses. Materials for disposal shall be moved off site as quickly as possible. Water sprays shall be used, as and when necessary, to reduce dust from particularly "dusty" activities or stock piles.

Raymond Lee (Development Management)

Date: 20 May 2024



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