**11. 17/1717/FUL - Change of use of ground floor from retail (Use Class A1) to restaurant and hot food takeaway (Use Classes A3/A5) with installation of extractor duct and external stair to rear at 8 MONEYHILL PARADE, UXBRIDGE ROAD, RICKMANSWORTH, WD3 7BE Mr Eric Louis Barnaby**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Parish: Batchworth Community Council | | Ward: Rickmansworth Town | | |
| Expiry Statutory Period: 01 November 2017 | | Officer: Lauren Edwards | | |
|  | |  | | |
| Recommendation: That planning permission be refused. | | |
|  | | |
| This application is brought before the Committee as it has been called in by three Committee Members. | | |

1. **Relevant Planning History**
   1. 8/14A/75 - Illuminated fascia sign.
   2. 8/35/87 - Extension to garage, showroom
   3. 8/412/76 - 2 Metre high brick boundary wall
   4. 8/438/75 - Single storey extension and new shop front
   5. 8/556/75 - Erection of single storey rear extension and new shop front
   6. 97/0974 - Boundary wall to create waste bin storage area
   7. 17/0806/FUL- Change of use of ground floor from retail (Use Class A1) to restaurant and hot food takeaway (Use Classes A3/A5) with installation of extractor duct to rear- Refused for the following reason:

*There would be inadequate parking to serve the proposed development resulting in a significant increase in parking in the surrounding area exacerbating existing parking pressures to the detriment of the safe movement and free flow of other highway users. The lack of parking, together with noise, odour and disturbance arising from the proposed use would also result in nuisance and harm to the amenity of neighbouring occupiers. The proposal would not therefore be complementary to the Local Centre and the development would be contrary to Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM9, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013), and Policy SA4 of the Site Allocations LDD (adopted November 2014).*

Appeal in progress.

1. **Site Description**
   1. The application site is located on the junction of Uxbridge Road and Elm Way, it is currently in A1 use, as defined by the [Town and Country Planning (Use Classes) Order 1987](http://www.legislation.gov.uk/uksi/1987/764/contents/made) (as amended). It is currently being used as a carpet shop, there is an office/store room associated with the retail unit located at first floor level. To the rear is an extension which contains a bin store that can be accessed from the path running to the north east of the proposal site.
   2. To the rear of the proposal site is 2a Elm Road (a residential dwelling) which is approximately 5m from the rear elevation of the rear projection at number 8 Moneyhill Parade. There is an access to the rear of the proposal site that provides access to the other units in this section of Moneyhill Parade.
   3. The proposal site is attached to 9 Moneyhill Parade, to the east across Elm Way is 7 Moneyhill Parade. There is no car parking available within the curtilage of the proposal site, there is some limited on street parking located to the frontage of the property, this is outside of the application site and is shared with other premises in the area. There are parking restrictions in place.
   4. Currently on the frontage of the property there is signage and advertisements associated with the current use of the property.
2. **Proposed Development**
   1. Planning application reference 17/0806/FUL was brought before Members of the Planning Committee on 22 June 2017. This application was described in the officer’s committee report as:

*This application seeks full planning permission for the change of use of ground floor from retail (Use Class A1) to restaurant and hot food takeaway (Use Classes A3/A5) with installation of extractor duct to rear.*

*The ground floor is proposed to be converted into a restaurant with a seating area, bar, kitchen preparation area, washing up area, storage, male/female toilet, cold room, bicycle parking area and waste recycle area.*

*The seating area that is proposed is considered to be 83.6m2 in size, from the information that has been submitted.*

*The proposed flue on the rear of the property is proposed to be 3.5m in height from the current flat roof, 1m of the flue is to protrude above the eaves to the rear of the property. Within the flue there is proposed to be extraction equipment that is to serve the flue from the cooking equipment in the restaurant.*

*There is no information on any other changes to the front of the property including the signage.*

* 1. The current application differs in that it is accompanied by a parking survey. In addition an external staircase is proposed to the rear. The development currently proposed also includes a reduction in 4 seats compared with that previously proposed and the previously proposed external access ramp has been sited internally.
  2. The proposed external stairs would be sited to the rear of the building, set to the boundary with No.9 and would have a width of 0.9m. This would provide access to a first floor office and would include the insertion of a door within the rear elevation at first floor level. Railings would also be included along the rear flat roofed projection which would have a height of 1m and would be constructed of black painted steel.

1. **Consultee Responses**
   1. Local Plans: [No objection]

*The application seeks to change the use of the existing A1 retail to a restaurant and hot food takeaway (A3/A5). The site is within the Local Centre of Moneyhill Parade, Rickmansworth. Policy SA4 of the Site Allocations Local Development Document states that identified Local Centres and Local Shops will be protected and enhanced where they are catering for local day-to-day needs and the retention of retail uses will be encouraged. Policy SA4 goes on to state that uses complementary to the Local Centre and Local Shops will be encouraged. The applicant claims that the existing retail use is no longer financially viable. If this is indeed the case, then alternatives may need to be considered. The local centre provides a variety of shops, and services as well as a wide range of restaurant/cafés and hot food takeaways. A restaurant and hot food takeaway, though not A1 retail, can be considered a use that is complementary to the Local Centre and Local Shops; as such application does not conflict with Policy SA4 of the adopted Site Allocations Local Development Document.*

* 1. Environmental Health: No comments received.
  2. Environmental Protection: No comments received.
  3. Hertfordshire Highways: [No objection]

***HIGHWAY INFORMATIVES:***

*Chairs and tables on highway*

*AN). Notwithstanding the consent issued under the Town and Country Planning Act, a licence issued under the provisions of Section 115E of the Highways Act 1980 is required prior to the placement of any tables, chairs or other apparatus in the public highway. The applicant will need to apply to the County Council Highways via either the website https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/street-cafe-licence.aspx or telephone 0300 1234047 to arrange this.*

***COMMENTS / ANALYSIS:***

*The proposal comprises of the change of use of a shop (class A1) to a restaurant (class A3/A5) at 8 Moneyhill Parade, Uxbridge Road, Rickmansworth. The property is located on the corner of Uxbridge Road and Elm Way. Uxbridge Road is designated as a main distributor classified ‘A’ road subject to a speed limit of 30mph and highway maintainable at public expense. Elm Way is designated as a local access road, subject to a speed limit of 30mph and is highway maintainable at public expense.*

*VEHICLE ACCESS & PARKING*

*There is no new/altered vehicle access in relation to the proposals. There are no existing or proposed on-site parking spaces. A previous application was refused planning permission due to the lack of car parking. The new application has been submitted which includes agreements “made by the applicant with surrounding businesses which will allow restaurant/takeaway customers to user their parking spaces during evenings and weekends”.*

*HCC as the Highway Authority’s main concern would be any negative effect the proposal would have on the free and safe flow of traffic along Uxbridge Road. It is acknowledged that there is a large pressure for parking in the area and the demand for parking is likely to be higher for the proposed restaurant than for the existing shop. However given the existing parking restrictions on Uxbridge Road and the availability of parking within the parade area, it is unlikely that any effects would be significant enough to recommend refusal from a highway point of view.*

*TRAFFIC GENERATION & IMPACT ON THE ADJACENT HIGHWAY:*

*The traffic generation of vehicles would be considered not to have a significant impact on the local highway network.*

*ACCESSIBILITY & SUSTAINABILITY:*

*The property lies within in a sustainable location surrounded by commercial and retail businesses and close to residential areas and there is therefore potential for good pedestrian and cycling accessibility. A wide highway footway exists at the front and side of the property and the property is within walking distance of the town centre bus stops (the nearest bus stop is 40m away). Furthermore Rickmansworth railway station is only 1km from the property and therefore within easy reasonable walking and cycling distance. Secure bicycle parking has been provided as part of the proposal and this is considered to be acceptable and in accordance with HCC and TRDC guidance.*

*CONCLUSION:*

*HCC as Highway Authority has considered that the proposed change would not to have a significant or unreasonable impact on the safety and operation of the nearest highway. Therefore HCC has no objections or further comments on highway grounds to the proposed change of use, subject to the inclusion of the above informative.*

* 1. National Grid (Gas): No response received.
  2. Batchworth Community Council: No response received to date. The committee will be updated verbally.
  3. **Public Consultation**
  4. Number Consulted: 91
  5. Site Notice posted on 18.09.2017 and expired on 09.10.2017.
  6. Press notice was not required.
  7. Number of responses received: 61 to date (1 support and 60 objections). A petition containing 4 signatures has also been received.
  8. Summary of comments:
  9. Objections:

Highways

* Does not address previous reasons for refusal
* Going to bring in more traffic to the area
* Staff cause further parking pressure
* Informal agreements not been agreed by landowners
* Parking survey conducted during school holiday
* People park illegally on the roads already, across driveways and double yellow lines
* There is no enforcement of the parking issues in the area
* Dangerous parking situation
* There is a lack of parking available for the unit.
* Refuse trucks at unsociable hours
* Unlit track to the rear unsafe
* Parking pressures have an impact on access to Doctor’s surgery/pharmacy
* Insurance for use of off-site parking
* Deliveries cause increases parking pressure/congestion
* Proposed offsite locations unsuitable
* Emergency vehicles obstructed

Overdevelopment

* Unit unsuitable for the development
* Existing unit hasn’t been marketed

Other

* Additional litter
* Pests/Vermin
* Smell/noise pollution
* Other more suitable locations
* Anti-social behaviour
* Concerns over external staircase
  1. Supporting comments
* The restaurant will attract more people to the area and the shops
* This will increase the competition in the area
* Will replace the business before it closes – won’t be left vacant
* Will not increase rowdy behaviour
* Local economy needs occupied shops
* Many will car share
* More variety of establishments open in the evening

1. **Reason for Delay**
   1. Not applicable.
2. **Relevant Local and National Policies**
   1. The Three Rivers Local Plan

The Three Rivers Local Plan is currently being drawn up. The Core Strategy was adopted on 17 October 2011 after the Inspector concluded that it was sound following Examination in Public which took place in June 2011. Relevant policies of the adopted Core Strategy include CP1, CP7, CP9, CP10 and CP12.

The Site Allocations Local Development Document was adopted on 25 November 2014 after the Inspector concluded that it was sound following Examination in Public. Policy SA4 is relevant to this application.

The Development Management Policies Local Development Document (LDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies of the adopted Development Management Policies LDD include DM6, DM9, DM13 and Appendix 5.

* 1. National Planning Policy Framework (NPPF)

On 27 March 2012, the framework of government guidance in the form of Planning Policy Statements and Planning Policy Guidance Notes was replaced by the National Planning Policy Framework (NPPF). The adopted policies of Three Rivers District Council reflect the content of the NPPF.

* 1. Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 17 November 2011. The Growth and Infrastructure Act received Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

1. **Planning Analysis** 
   1. Principle of Development
      1. Policy SA4 of the Site Allocations Local Development Document states that identified Local Centres and Local Shops will be protected and enhanced where they are catering for local day-to-day needs. The retention of retail uses and uses which are complementary to the Local Centre and Local Shops will be encouraged.
      2. Policy CP7 (Town Centres and Shopping) of the Core Strategy, under section g states that the hierarchy of retail centres and their established character and diversity will be maintained through; “Protecting and enhancing existing Local Centres and other local shops which cater for local day-to-day needs”.
      3. The proposal site is allocated within the Site Allocations Local Development Document (site reference R(f)). This identifies that Moneyhill Parade, Rickmansworth is a Local Centre.
      4. This application is a resubmission of a previous application refused by TRDC (17/0806/FUL). The principle of the change of use from A1 to A3/A5 is not considered to be unacceptable. However the other material planning considerations set out below demonstrate that the application site is not conducive to accommodating the proposed A3/A5 development and the application does not overcome the previous reason for refusal.
      5. It is considered that the proposal would not impact on the availability of day-to-day needs as required by Policy CP7 of the Core Strategy and SA4 of the Site Allocations Local Development Document. The amount of A1 use within the parade is still considered to be at a level that is acceptable and adequate to meet the day to day needs to the residents of the surrounding area. Therefore the proposal is in compliance with Policy SA4 of the Site Allocations Local Development Document and Policy CP7 of the Core Strategy and there is no in principle objection to the change of use subject to compliance with other material considerations.
   2. Design and Impact on Street Scene/Character
      1. Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy states that development should ‘have regard to the local context and conserve or enhance the character, amenities and quality of an area’.
      2. No changes to the frontage are detailed on the submitted plans. Any changes in advertisement would require Advertisement Consent, any changes to the shop front would require full planning permission.
      3. To the rear of the proposal site there is proposed to be a flue for the cooking equipment within the unit. The proposed flue is to be 3.5m in height from the current flat roof projection to the rear of the building, 1m of the flue is to protrude above the eaves to the rear of the unit.
      4. Due to the location of the flue and the others that are located to the rear of the properties in the area it is considered that it would not be out of keeping with the character of the area. It would be visible from Elm Way when travelling to the parade, but due to the character of the rear of the properties it is not considered to appear unduly prominent or to have a detrimental effect. The materials that are proposed for its construction are not considered to be harmful to the rear of the property and the flue would not create a dominant addition to the rear of the property.
      5. The proposed development also includes the construction of an external staircase to the rear of the building which would provide access to an office at first floor level. Given it’s siting to the rear and the context of the application site within Moneyhill Parade which includes existing examples of similar external stairs (including at the adjacent site), it is not considered that the proposed stairs or railings would appear as an incongruous or unduly prominent feature so as to result in detrimental harm in this respect.
      6. The external ramp to the front access as previously proposed via application reference 17/0806/FUL has now been relocated to within the building and as such would not affect the streetscene.
      7. The proposal would be acceptable, in this regard, in accordance with Policies CP1 and CP12 of the Core Strategy).
   3. Impact on Neighbours
      1. Policy CP12 of the Core Strategy states that development should ‘protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space’.
      2. Paragraph (a) of Policy DM9 of the DMP LDD sets out that the council will refuse planning permission for development including change of use which would give rise to disturbance, noise, light, smell, fumes and vibrations unless appropriate mitigation measures are in place. Paragraph d) in regards to noise pollution sets out that planning permission will not be granted where development has an unacceptable impact on the indoor or outdoor acoustic environment of existing or planned development.
      3. The proposed opening hours of the property are between 11:00 to 23:00, this is acceptable as there are other units within Moneyhill Parade that are of the same use class that are also open for the same hours.
      4. Notwithstanding this, planning application reference 17/0806/FUL was refused as it was considered that the proposed change of use and associated lack of parking together with the noise, odour and disturbance would result in a detrimental impact on neighbouring amenity.
      5. A noise impact assessment has been submitted with the application in relation to the mechanical equipment proposed. Whilst the proposed extractor fan and associated equipment may not result in unacceptable noise levels it is not considered that the previous reason for refusal has been overcome as discussed below.
      6. The increased comings and goings from the site, that does not benefit from any off street parking, would result in nuisance and harm to neighbouring properties. This would include increased activity late in the evening. There would also be increased noise and disturbance from the use of the external metal stairs proposed as part of this application, which would be sited only 5m from 2a Elm Way.
      7. Therefore the proposed development would result in any significant adverse impact to the residential amenity of neighbouring dwellings and the development is contrary to Policies CP1 and CP12 of the Core Strategy and Policy DM9 of the Development Management Policies (Local Development Document).
   4. Traffic and Car Parking
      1. Core Strategy Policy CP10 requires development to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out parking standards.
      2. The following table shows the parking requirements as stated by Appendix 5 that are applicable to this application.

|  |  |  |  |
| --- | --- | --- | --- |
| Use Class | Description | Car Parking Standards | Car Parking Requirement |
| A1 Retail and Foodstores | Retail and Small food shops up to 500sqm gross floor area | 1 space per 30sqm gross floor area | Total floor space of the building is 150.6m2 (excluding side storage area) – 5 spaces required |
| A3 Restaurants and Cafés | Restaurant/ cafés | 1 space per 5sqm of floorspace of dining area plus  3 spaces per 4 employees. | 83.6m2 floor space of the dining room – 16.7 required spaces  9 spaces for the additional employees |
| A5 Hot Food Takeaways | Hot food takeaway shops (excluding fast food drive thru restaurants) | 1 space per 3sqm of floorspace of public area plus  3 spaces per 4 employees. | 83.6m2 floor space of the dining room – 27.8 required spaces  9 spaces for the additional employees |

* + 1. In regards of the amount of parking that is currently required at the proposal site for the A1 use there is an under provision of 5 parking spaces. If the application site were to be A3 use there would be a requirement for 25.7 spaces within the curtilage of the proposal site, this includes the staff parking at the maximum of the staff required. If the application site were to be solely for the use of A5 there would be a requirement for 36.8 spaces within the curtilage of the property.
    2. There is no on site parking and therefore whether applying A3 or A5 standards, there would be a significant shortfall in parking against standards.
    3. Planning permission was previously refused as it was considered that the lack of parking would result in unacceptable harm contrary to Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM9, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).
    4. The applicant has submitted a planning survey conducted by Paul Mew Associates. The report acknowledges that there is some onsite parking provision within nearby streets and on the Uxbridge Road. The survey also includes ‘agreements’ of private parking offered at other nearby sites. This is not considered to constitute appropriate, reliable or sustainable parking provision that would satisfy the requirements for the proposed development.
    5. As acknowledged by the Highways Authority there is pressure for parking in the area and demand for parking is likely to be higher for the proposed use. There is no on site parking proposed, resulting in a significant shortfall against standards. This would result in a significant increase in parking in the surrounding area exacerbating existing parking pressures to the detriment of the safe movement and free flow of the highway users.
    6. As previously outlined, in addition to the lack of parking being contrary to the requirements of Appendix 5 of the DMP LDD, it is considered that the increased comings and goings, congestion and increased parking pressure together with the associated noise would result in detrimental harm and inconvenience to neighbouring properties and would not be complimentary to the Local Centre.
    7. The proposed development would therefore be contrary to Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM9, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).
  1. Refuse and Recycling
     1. The officer’s committee report for application reference 17/0806/FUL set out that:

*‘It is shown on the submitted plans that there is provision for a waste and recycle area, the arrangements are considered to be acceptable by the Highways Authority. This area is currently used for waste and recycling from the current use of the premises. The collection method of the bins would need to be confirmed by the Three Rivers District Council Waste Management, therefore it is considered acceptable to recommend a condition on the application to ensure sufficient information is submitted*.’

* + 1. Whilst the Highway’s officer has not provided comments on this application specifically in relation to the refuse and recycling, given that there has been no change from the previous submission in this respect and no change in site circumstance it is still considered that the proposed development is acceptable in this respect for the reasons outlined above.
  1. Trees
     1. Policy DM6 of the Development Management Policies sets out that development proposals should seek to retain trees and other landscape and nature conservation features and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
     2. There are no trees that would be impacted by the proposal.
  2. Biodiversity
     1. Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.
     2. The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. The application is accompanied by a biodiversity checklist which states that no protected species or biodiversity interests will be affected as a result of the application. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken.
  3. Summary
     1. In summary it has not been demonstrated that the development has overcome the previous reason for refusal. In addition to the lack of parking being contrary to the requirements of Appendix 5 of the DMP LDD, it is considered that the increased comings and goings, congestion and increased parking pressure together with the associated noise would result in detrimental harm and inconvenience to neighbouring properties and would not be complimentary to the Local Centre.

1. **Recommendation**
   1. That PLANNING PERMISSION BE REFUSED for the following reason:

R1 There would be inadequate parking to serve the proposed development resulting in a significant increase in parking in the surrounding area exacerbating existing parking pressures to the detriment of the safe movement and free flow of other highway users. The lack of parking, together with noise and disturbance arising from the proposed use would also result in nuisance and harm to the amenity of neighbouring occupiers. The proposal would not therefore be complementary to the Local Centre and the development would be contrary to Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM9, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013) and Policy SA4 of the Site Allocations LDD (adopted November 2014).

* 1. Informative

I1 In line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has considered, in a positive and proactive manner, whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. Whilst the applicant and the Local Planning Authority engaged in pre-application discussions, the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.