

Item No. 06

APPLICATION NUMBER	CB/14/02010/FULL
LOCATION	6 Lincoln Way, Harlington, Dunstable, LU5 6NA
PROPOSAL	Change of use from "Sui Generis" Beauty Shop to A3 Cafe, with Deli & Curiosities areas.
PARISH	Harlington
WARD	Toddington
WARD COUNCILLORS	Cllrs Costin & Nicols
CASE OFFICER	Sarah Fortune
DATE REGISTERED	04 June 2014
EXPIRY DATE	30 July 2014
APPLICANT	Ms Cullen
AGENT	
REASON FOR COMMITTEE TO DETERMINE	Brought to Development Management Committee by Head of Development Management.
RECOMMENDED DECISION	Full Application - Approval

Summary of Recommendation:

The application is recommended for approval, this is because the change of use from beauty parlour to A3 cafe, subject to condition would be an appropriate use for the building, and would not significantly impact upon the amenities of local residents. This application is considered to be in accordance with policy DM3 of the Central Bedfordshire Core Strategy and Development Management Policy Document, and policy 43 of the emerging Development Strategy for Central Bedfordshire in addition it is in conformity with the positive approach to planning within the National Planning Policy Framework (2010).

Site Location:

The application site lies in a parade of 1970's built shops which lies well back from Lincoln Road behind a large open area of grass in the built up area of the village of Harlington. The premises have most recently been used as a beauty shop and this has closed. To the east are numbers 8,10 and 12 Lincoln Way which are occupied by a Post Office and then a village store/off licence and a convenience store. On the west side of the premises (No 2) is a hairdressers.

The Application:

This application is for the change of use of the premises from the beauty shop - Sui Generis - to an A3 cafe with a deli and curiosities area.

RELEVANT POLICIES:

Core Strategy and Development Management Policies - North 2009

DM3 Amenity

Emerging Development Strategy for Central Bedfordshire dated 2013.

Policy 43 High Quality Development

National Planning Policy Framework 2012.

Supplementary Planning Guidance

Design in Central Bedfordshire A Guide for Development:

Planning History of application site and adjoining units - relevant

MB/88/00888	Full: Change of use from shop to hot food takeaway (fish and chips). Withdrawn: 20/08/2008
MB/93/01256	Full: Change of use from A1 (pet shop) to A3 (pizza delivery service) with take away facilities. Refused: 12/11/1993
MB/97/00821	Full: Change of use of ground floor from A1 (pet shop) to A3 (hot food takeaway) Refused: 15/07/1997 Appeal Dismissed 6/02/1998
MB/01/00703	Full: Change of use to residential Refused: 24/04/2001
MB/05/01308/FULL	Change of use from Florist (A1 use) to Beauty Salon (Sui Generis) Granted: 2005

Representations: (Parish & Neighbours)

Harlington Parish Council No objections

Neighbours 46 e. mails and letters of support: Great to have a cafe in the area to go to with friends, this will enhance the village, will benefit the residents of Harlington, will provide a social centre to meet, have a coffee and use the other shops in the same row, hopefully it will put Harlington on the map, it

will provide a facility that is presently lacking in the village, the applicant runs a lovely pop up shop in the village hall at present, other uses on this site have failed as they are not needed, this will give the parade of shops a new lease of life.

App Adv

27 e. mails and letters raising objections on grounds that the village already has other groups, pubs, shops, churches, village halls etc.. that carry out the same functions to that being proposed - there is therefore no need for this type of outlet. Insufficient parking for the existing facilities - that park on a short fast turn around basis as the shops are advised to do - as well as longer term parking for sit down meals. The neighbours to the rear will be affected by smells, mess, rodents and noise that accompany this type of outlet encroaching on their privacy. The existing drainage is not designed for cafe waste and will lead to regular blockages and disruption. There appears to be no proposals for regular removal or storage of food waste and even if there is it is likely to encourage rats and foxes. The area shown for bins is not sufficient as it shows two bins each at 375mm wide. The opening hours are confusing as at first it states 10.00 to 17.00 and then goes on to say would very much like the hours to be restricted on any permission. The applicant further advises that they may wish to use the site for private use facilities - such as church group's youth cubs in the evening etc.. The evening use will encourage unwanted noise and mess.

The design shown on the drawing does not relate to the description and functions as shown in the written application and does not give a true reflection of what is intended or proposed. Will there be take away use? Object to signage in or around the village or on main routes as this will encourage outside traffic into the village such as lorries and industrial vehicles.

The position of the lease should not be taken into account. The reference to other villages and their cafes should not be taken into account as they all have passing trade and Harlington is a sleepy village with no passing trade.

There is uncertainty and lack of clarity re the business plans of the proposals. The site does not appear to be of adequate size of the type of unit being proposed. Unlikely to be successful in its proposed format. Object to advertising around the village.

There are a number of building control concerns such as means of escape and there is no suitable back access and nowhere to put extract fans either to the front or rear of the premises, the site is too small inside to be safe if

there were to be a fire.

There have been previous refusals and appeals dismissed regarding the use of the site for A3 purposes.

Consultations/Publicity responses

Highways officer No objections

E.H.O. No objections subject to conditions

Determining Issues

The main considerations of the application are;

1. Background and Policy
2. Impact on visual amenities of site and area
3. Impact on amenities of neighbours
4. Parking and other considerations

Considerations

Human Rights issues

There are no relevant Human Rights Issues

Equality Act 2010

There are no relevant issues under the Equality Act

1. Background and Policy

The site lies in an established parade of shops in the heart of the village of Harlington. The shop premises have most recently been used as a beauty clinic (Sui Generis) having previously been a florist (A1). There is a hair dressing salon to the south west and a shop, off licence and post office to the north east. A newsagents is on the north east end of the parade. There is a large lay by to the front of the grassed area in Lincoln Way to the north west.

The new occupiers wish to open the premises as a cafe, deli and curiosities shop offering 30 covers. There is to be a kids play area and pushchair parking. It is intended to sell healthy meals, locally produced art works, preserves, oils and crafts as well as brassware, vintage books and toys etc.. These latter items are to decorate the shop and also be for sale. They wish to open with restricted opening hours of between 10am and 5pm.

The site has a lot of planning history with both A3 uses and residential uses having been refused. One of the A3 refusals for hot food takeaway was also dismissed on appeal. The reasons that the Inspector gave for his dismissal of the appeal related to the evening hours of opening. He was of the opinion that the revving of car engines and opening and shutting of car doors as well as the

general activity of people going to and from the site would cause noise and disturbance to those living over the shops and those in close proximity - at times when they could reasonably expect peace and quiet. In paragraph 5 of his decision letter dated 6/02/1998 ref: 21/97/821 he stated *'In my opinion, in the daytime the proposed takeaway shop would not cause significantly more noise nuisance than the other shops in the parade; but in the evening, when the area is generally quieter, it would attract more customers, both from the village and surrounding area.'* He was also of the view that whilst suitable extraction systems could be installed in the premises the first floor flat is in close proximity to the ground floor and the exhaust system would need to be fixed to the wall of the premises above over which there would be no control. He was not convinced that there would not be loss of amenity by way of cooking smells to neighbours. He was also of the view that opening in the evening at times - when the other shops were likely to be open - would result in parking difficulties at these peak evening trading times as extra customers visited the take away for their evening meal. The lack of adequate off street parking facilities may lead to cars parking in the local roads. (The Inspector was aware that the application was for a Take-Away Fish and Chip shop).

The applicant in this application is seeking to run a very different kind of use to the previous planning applications for A3 uses at this site and in the adjoining parade of shop units. It is considered that the imposition of a condition which restricts opening times to "day time only" would overcome these concerns.

2. Impact on visual amenities of area.

The change of use will have minimal impact on the appearance of the site in that the only significant change that there will be is to the shop front which will have the words 'sugar and spice' above the glass windows and the words 'cafe, deli and curiosity shop'. This will not have an adverse impact on the visual appearance of the site or the parade of shops. The proposals are therefore in compliance with planning policies in the Core Strategy and Development Management Planning Document dated 2009 and policies in the emerging Development Strategy for Central Bedfordshire dated 2013.

3. Impact on amenities of neighbours

A main area of consideration is the impact of the change of use on the amenities of neighbours by way of cooking smells, noise and general disturbance as well as potential litter generated by the use and car parking problems that may be created on the local roads. The same concerns were given very careful consideration in the previous refusal on the site for A3 uses which were to open during the day and evening hours and the applicant being aware of these concerns has stated that she is happy to accept a very restricted planning permission having conditions controlling the hours of opening.

The applicant has advised that she wants to open only during day time hours and would be happy to restrict the type of food, frequency and method of cooking that is undertaken so that there is no need for anything more than

domestic type cookers with domestic type oven extraction. She intends to sell soups, ploughman's lunches, jacket potatoes, quiches rolls, baguettes, a hot meal, cakes and hot and cold drinks and has submitted a list of the types of food to be sold. She has been in discussions with the environmental health officer regarding methods of keeping food emissions within the filters of any extraction system and rather than being distributed out of the building. In addition, part of the business is for a deli and the selling of curiosities and this is therefore a part A1 use.

The environmental health officer has advised that he is satisfied that the proposed use can be operated so that there is no requirement for external extract systems and this would therefore reduce the issue of cooking smells to neighbours. Various conditions are to be attached to the permission which include controlling the opening hours, these conditions will reduce the potential impact of the use on the amenities of neighbours particularly on those who live above the shop and around the site.

4. Parking and other considerations

In considering the previous appeal for an A3 use on this site the planning inspector raised concerns about the potential for parking problems on the neighbouring roads in the early evening hours when the other shops would still be open. In this application, the premises are to be used as a cafe with some take way sandwiches etc.. The highways officer has advised that there is a parking bay to the front of the site which seems to be heavily used and not adequate for the amount of use leading to on street parking in the vicinity as there are no parking restrictions on the nearby roads. However, given the previous use of the site and the small nature of the proposed business and the limited hours of opening it is probable that it will generate less vehicle traffic and more foot traffic and so any objection due to the lack of parking provision would be difficult to sustain. There are therefore no highways objections.

Local residents have raised a number of concerns about the proposal some of which relate to cooking smells and general disturbance etc.. and have been referred to above. In addition concerns have been raised about rear escape, rear access and drainage and these are matters that will be dealt with under the Building Regulations application. The applicant has advised that any takeaway items will be sold in paper bags/cardboard boxes. Litter picking will take place hourly outside the shop. All compostable waste is to be collected and disposed of daily by the applicants.

The concerns raised by local residents have been given very careful consideration and being considered against the background of the fact that the site is a purpose built shop unit and that the current beauty salon does not have any hours of operation planning restrictions. It is therefore considered that the proposed use of the premises, within the hours proposed, would not result in demonstrable harm to the residential amenity of neighbouring and nearby occupiers. The proposed use is considered to be acceptable.

Recommendation

That Planning Permission be approved subject to the following:

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 No external openings shall be made within the external envelope of the building for the purposes of ventilating food preparation or cooking areas without prior written agreement of the local Planning Authority of a scheme to mitigate against odour.

Reason: To safeguard the amenities of occupiers of neighbouring properties.

- 3 The premises shall only be used as a cafe (A3) and part A1 use and shall not be used for any other purposes within Class A3 of the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: For the avoidance of doubt, to safeguard the amenities of occupiers of neighbouring properties and to exclude the provisions of the said Use Classes Order and to ensure that the Local Planning Authority retains full control of the future use of the premises in view of the special circumstances of the case.

- 4 The premises shall only be open to customers between the hours of 10:00 hours to 17:00 hours Mondays to Saturdays and not at all on Sundays.

Reason: To safeguard the residential amenity which the occupiers of neighbouring properties might reasonably expect to enjoy.

- 5 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers CBC01, CBC2 and submission A.

Reason: To identify the approved plan/s and to avoid doubt.

Notes to Applicant

1. The applicants attention is drawn to their responsibility under The Equality Act 2010 and with particular regard to access arrangements for the disabled.

The Equality Act 2010 requires that service providers must think ahead and make reasonable adjustments to address barriers that impede disabled people.

These requirements are as follows:

- Where a provision, criterion or practice puts disabled people at a substantial disadvantage to take reasonable steps to avoid that disadvantage;
- Where a physical feature puts disabled people at a substantial disadvantage to avoid that disadvantage or adopt a reasonable alternative method of providing the service or exercising the function;
- Where not providing an auxiliary aid puts disabled people at a substantial disadvantage to provide that auxiliary aid.

In doing this, it is a good idea to consider the range of disabilities that your actual or potential service users might have. You should not wait until a disabled person experiences difficulties using a service, as this may make it too late to make the necessary adjustment.

For further information on disability access contact:

The Centre for Accessible Environments (www.cae.org.uk)
Central Bedfordshire Access Group (www.centralbedsaccessgroup.co.uk)

2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Statement required by the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 - Article 31

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

DECISION

.....
.....