

Application No: 15/3634C

Location: 4, LOWER HEATH, CONGLETON, CHESHIRE, CW12 1NJ

Proposal: Proposed Change of Use from Retail (A1) to Hot Food Takeaway (A5) - Ground Floor Only

Applicant: Mr I Frost & Mr G Barnett

Expiry Date: 02-Oct-2015

SUMMARY:

The site is within the Settlement Zone Line of Congleton, where there is a presumption in favour of sustainable development.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety and residential amenity satisfying the environmental sustainability role.

The proposal would satisfy the economic sustainability roles by providing employment in the locality.

It is not known what type of hot food would be provided at the site therefore the issue of the provision of unhealthy food could not be considered to weigh against the proposal having regard to the social role of sustainable development.

RECOMMENDATION:

Approve subject to conditions

CALL IN

The application has been called in to Committee by Cllr Gordon Baxendale on the grounds of environmental problems of near neighbours relating to smells and noise and adverse impact on highway safety.

PROPOSAL

Full planning permission is sought for the change of use of the building at ground floor level, from A1 (Retail) to A5 (Hot food takeaway).

SITE DESCRIPTION

The application site comprises an existing retail unit in the Lower Heath area, virtually at the junction of the A34 and the A534 in Congleton. The unit is currently not in use. It is situated

at the end of a run of three residential terrace houses Traffic merges as it journeys south and into Congleton immediately prior to the site that is to the west of the road. A tarmac forecourt is at the front of the shop. The site is abutted by residential properties to the north and west and adjoining a residential property to the south. Residential is opposite to the east.

RELEVANT HISTORY

14/1094C – Change of use from A1 to A5 – Refused 23.07.14

13/4319C – Change of use from A1 to A5 – Refused 23/12/13

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 and 19.

Development Plan:

The Development Plan for this area is the adopted Congleton Borough Local Plan First Review 2005, which allocates the site as being within the Settlement Zone Line.

The relevant Saved Policies are: -

PS4 – Towns
GR1 – New Development
GR2 – Design
GR4 – Landscaping
GR6 – Amenity and Health
GR7 – Pollution
GR9 - Accessibility, Servicing and Parking Provision

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

SD 1 Sustainable Development in Cheshire East
SD 2 Sustainable Development Principles
SE 1 Design
SE 2 Efficient Use of Land
SE 5 Trees, Hedgerows and Woodland
SE 9 Energy Efficient Development
SE 12 Pollution, Land Contamination and Land Instability
EG1 Economic Prosperity

CONSULTATIONS:

Highways:

The Head of Strategic Infrastructure (HSI) has not commented on this application at the time of report writing.

Environmental Protection:

Object on the grounds of adverse impact on residential amenity due to noise and odour.

Town Council:

No comment.

REPRESENTATIONS:

At the time of report writing 5 representations have been received which can be viewed in full on the Council website. They express concerns about noise, odour, parking, visual impact, litter and encouraging people from the local school to eat unhealthy food.

APPRAISAL

The key issues to be considered in the determination of this application are set out below.

Principle of Development

The site lies in the Settlement Zone Line as designated in the adopted Congleton Borough Local Plan First Review 2005, where there is the presumption in favour of sustainable development.

The issue in question is whether this proposal represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the presumption in favour of sustainable development.

Two previous applications were refused for a change of use of the ground floor to hot food takeaway in 2013 and 2014.

The reason for refusal on application ref. 14/1094C is as follows:

It is considered that the proposed development and use, as a result of the location, would be detrimental to the residential amenity of nearby residential accommodation by way of odour, fume, noise and disturbance. It is therefore contrary to Policies GR1, GR6 and PS4 of the Congleton Local Plan (2005).

Since the refusal new legislation has been introduced.

On 15th April 2015, the Town and Country (General Permitted Development) (England) Order 2015, came into force. Under Schedule 1, Part 3, Class C (a) it is now Permitted Development for a change of use from retail to (Class A1) to restaurants and cafes (Class A3). In addition under Class C (b) allows for the provision of facilities for ventilation and

extraction (including the provision of an external flue) and storage of rubbish. This is subject to conditions requiring the developer to apply for prior approval of details relating to issues such as noise, odour, storage of waste, hours of opening, highways and other issues.

As such it would be possible to change the use of the building to a café/restaurant of any genre, subject to conditions relating to noise, odour and the handling and storage of waste. The most recent reason for refusal related to odour, fume, noise and disturbance; however given the change in legislation, it is considered that this is an issue that should be controlled by condition.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”

There are, however, three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

These roles should not be undertaken in isolation, because they are mutually dependent.

ENVIRONMENTAL SUSTAINABILITY

Residential Amenity

It is acknowledged that the site is bounded by residential properties; however this is not untypical of several sites within the Borough that have hot food takeaways in close proximity

to residential development all controlled by conditions. These include 20 Biddulph Road, Congleton (06/1029/COU), 52 Crewe Road, Alsager (09/1048C), 6 Green Street, Sandbach (09/3662C), 78 Palmer Street, Bollington (10/1143M) and 121 Nantwich Road, Crewe (15/1506N).

Therefore, given the new legislative position set out in the Principle of Development section of this report and other similar applications that have been approved with conditions, it is considered that the issues of noise odour and disturbance should be controlled by conditions.

As set out above, conditions should be imposed to protect the residential amenity of neighbouring properties. The hours of operation should be restricted to 11am to 11pm Monday to Saturday and 4pm to 11pm on Sundays and public holidays. Full details of all equipment with the potential to create noise and to control the discharge of odours, should be submitted for approval, subject to the information being considered acceptable by Environmental Protection Officers. All approved equipment discussed above shall be retained and maintained.

It is considered that these measures would adequately safeguard the amenity of neighbouring residential properties and render the proposal acceptable and in accordance with Policy GR6 of the adopted local plan.

Highways

The Head of Strategic Infrastructure (HIS) has not commented on this application; however on the previous application (14/1094C), the HIS made the following comments:

“Traffic generation will be restricted to much shorter hours than the existing use and the parking arrangements have been revised to improve turning movements.

This location is complex and the Strategic Highways Manager has had to take a balanced view on the impact of this development. Within this assessment other sites with similar locations have been considered and their performance observed. There are established chip shops in Congleton, Sandbach and Knutsford who have frontage or no off street parking, front primary roads and which are in the vicinity of complex junctions and one of them with a PUFFIN crossing immediately adjacent to the site.

These established sites work both safely and well and with this information alongside the Transport Statement which defines impact at a lower level than the existing use, the Strategic Highways Manager feels that when the NPPF is considered there would not be a severe impact from this development proposal.”

It is considered, despite objections that have been received, that the highway implications arising from the development are acceptable and a refusal on highway grounds could not be sustained. Furthermore, Members must note that the previous application was not refused on highways grounds and therefore was deemed to be acceptable by the Council in this regard. The circumstances remain unchanged in respect of highway matters.

ECONOMIC SUSTAINABILITY

The Framework includes a strong presumption in favour of economic growth.

Paragraph 19 states that:

‘The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth’

With regard to the economic role of sustainable development, the proposed development will bring back into use an existing commercial building leading to economic benefits in terms of local employment and business.

SOCIAL SUSTAINABILITY

The proposal is for change of use to hot food takeaway and Cllr Baxendale has raised the issue of the proximity of the site to the nearby secondary school. He is concerned that this would not encourage children to eat healthy foods at lunchtime. However the application is only for the change of use to hot food takeaway in principle, and does not specify the type of food that would be sold. As such a reason for refusal on these grounds could not be sustained.

Response to Objections

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised namely, noise, odour, highway safety and general issues related to residential amenity are addressed within the individual sections of the report.

Conclusion – The Planning Balance

The site is within the Settlement Zone Line of Congleton, where there is a presumption in favour of sustainable development.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety and residential amenity satisfying the environmental sustainability role.

The proposal would satisfy the economic sustainability roles by providing employment in the locality.

It is not known what type of hot food would be provided at the site therefore the issue of the provision of unhealthy food could not be considered to weigh against the proposal having regard to the social role of sustainable development.

RECOMMENDATION

Approve subject to the following conditions:

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning & Enforcement Manager has delegated authority to do so in consultation with the Chairman of the Northern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Application for Full Planning

RECOMMENDATION:

1. Hours
2. Time Limit
3. Plans
4. Noise
5. Odour

