

App.No: 141529 (PPP)	Decision Due Date: 9 February 2015	Ward: Hampden Park
Officer: Toby Balcikonis	Site visit date: 15 January 2015	Type: Planning Permission
Site Notice(s) Expiry date: 20/01/2014 Neighbour Con Expiry: 20/01/2014 Weekly list Expiry: 19/01/2015 Press Notice(s): N/A		
Over 8/13 week reason: The application is within date		
Location: 37 Mountfield Road, Eastbourne		
Proposal: Proposed change of use from A1 (retail) to A3 (restaurant) and A5 (take-away) with repositioned extraction equipment from previous application.		
Applicant: Mr N Ceylan		
Recommendation: Approve with Conditions		

Executive Summary:

The application is a re-submission with minor amendments to application ref: 143311 previously refused at committee for the following reason:

The previous proposal by reason of the location, size and design of the proposed external flue would represent a prominent feature that would be intrusive and detrimental to the local street scene as well as having the potential to have an adverse impact upon the amenities of the residential properties in the area by reason of noise and fumes.

CURRENT SCHEME:

The applicant has submitted a revised design to address the reasons for refusal at committee, which incorporates a more sensitively designed and positioned arrangement for the external flue and associated duct work.

RECOMMENDATION:

The proposed scheme, a revision of a previous application is recommended to be approved as it is considered to overcome the previous reason for refusal, and does not present any additional issues not already considered previously at Planning Committee.

Planning Status: Ground floor retail unit currently empty for more than 2 years, with residential flat above.

Eastbourne Core Strategy Policies

C7: Hampden Park Neighbourhood Policy

D5: Housing Low Value Neighbourhoods

D10: Historic Environment Archaeological Notification Area

D10a: Design

Borough Plan Policies

UHT1: Design of New Development

UHT4: Visual Amenity

HO2: Predominantly Residential Areas

HO20: Residential Amenity

NE18: Noise

US5: Tidal Flood Risk

Environment Agency Flood Zones

Flood Zone 2 Tidal Models

Flood Zone 3 Tidal Models

Environment Agency Flood Defences

Areas Benefiting from Defences

Relevant Planning Policies:

National Planning Policy Framework 2012

Paragraphs 6, 7, 11, 12, 13, 14, 17, 19, 21, 58, 60, 61, 64, 65, 66, 203 & 206

Site Description:

The application site is located in a large corner plot, fronting Mountfield Road and with the side elevation on Lottbridge Drive within the Hampden Park area of the town and consists of a ground floor vacant retail space, with separate residential accommodation located on first floor.

Located on the end of a predominantly residential terrace, the locale is characterised by its mixed use of residential retail and food establishments.

With a wide variety of residential properties, community facilities, schools and open spaces, exist for the area making Hampden Park a sustainable location for continued growth.

Relevant Planning History:

141134

Proposed change of use from Class A1 (retail) to Class A3(restaurant/café) and Class A5 (hot food takeaway)

Refused at committee – 30/10/2014 reason for refusal outlined above.

130022 (Related to 1 The Hydneye)

Change of use from laundrette to A3/A5 takeaway with installation of new extraction ducting to the rear elevation and minor alterations.

Refused at committee – 26/04/2013

Allowed on appeal with new conditions 17/12/2013

Proposed development:

The applicant is seeking planning permission to change the current use from A1 (retail) to Class A3 (restaurant/café) and Class A5 (hot food take away). The ground floor retail

unit, previous Computer HQ shop has been empty for a period of 2 years is proposed to become a Turkish meze restaurant with takeaway.

The footprint of the existing premises will not change as a result of the proposed change of use, with following proposed external changes:

- Installation of extraction ducting on flat roof above residential unit
- Replacement of an existing ground floor kitchen window on the West elevation, with side hung 'escape' type window
- Installation of enlarged deck and steel access stair to replace existing timber deck serving the upper floor residential unit.

The main difference to the previously submitted scheme is the positioning of the extraction vent and ducting which would be required in conjunction with the proposed use.

The new arrangement would see the majority of ducting contained within the application premises and running up through a newly constructed fireproof and acoustically insulated duct in the location of an existing cupboard within the residential flat on the upper floor which is proposed for use as the manager's flat in the event of the scheme being approved.

It is proposed that for the flue to run up through the duct and out of the flat roof above the residential unit to a more sympathetically sited extraction unit toward the West flank of the building, facing away from the adjacent dwellings on Mountfield Road. The flue will project 1 metre upward from the flat roof (60cm above that of the 40 cm parapet height which run along the East and West side elevations).

The applicant has proposed a slight reduction to the previous scheme and the proposed hours of operation from Monday to Saturday. Proposed opening hours for both A3 and A5 uses to be:

- MONDAY – SATURDAY 11:00 – 23:00
- SUNDAY & BANKHOLIDAYS 13:00 – 23:00

Consultations:

Internal:

Specialist Advisor (Environmental Health) was consulted in a memo dated 23 December 2014. Response dated 06/01/15 Recommends that should the grant of consent be issued, that planning conditions should be added covering:

- Installation of equipment to suppress and disperse fumes and/or smell be installed to the satisfaction of the Local Planning Authority prior to the commence of the new use.
- Recommended maximum day and night noise level ratings to be imposed.

Specialist Advisor (Planning Policy) Rec'd 02/01/2015:

- The site is not located within a designated shopping area the loss of an A1 unit is deemed to be acceptable in principle.

External:

Highways:

- Located within walking distance of a large number of residential properties
- 2 Parking spaces available on site
- A1 use could lead to similar patterns to A5 use with regard to short-term parking
- Impact not considered severe and breach of nearby parking restrictions are enforceable

Building Control:

Awaiting comments from Building Control at the time of writing this report. Any comments received will be verbally reported at Committee.

Fire Safety Officer:

Awaiting comments from the County Fire Safety Officer at the time of writing this report. Any comments received will be verbally reported at Committee.

Neighbour Representations:

At the time of writing the report 2 objections have been received, both requesting to speak at committee, covering the following points:

- Opening Hours and the possibility of alcohol
- Anti-Social behaviour
- Extractor Issues
- Parking Difficulties
- Position of Kitchen makes escape from fire difficult for above residential unit
- Proximity of proposed A5 to school

In addition to the representations received to-date, it must be noted that the previous scheme, refused at Planning Committee included a petition with approximately 150 signatures which carried with it further comments including:

- There are already 11 take-aways in Hampden Park
- Existing problems with rubbish from existing premises
- Issue of noise and litter
- The positioning of the flue (outside window of flat above).
- Opening hours
- The extraction duct will restrict access to the residential flat
- Existing residential access to flat unsafe, especially in the dark
- Concerns regarding cooking smells and the noise of the fans

Appraisal:

Principle of development:

There is no objection in principle to this change of use from A1 (retail) to A3 (restaurant) and A5 (hot food take-away) and associated works in what is a predominantly residential area, provided it would not have an unacceptable adverse impact on the amenities of the nearby residents and is designed to respect the established character of the area. In addition external changes should not have an unacceptable adverse effect on visual amenity and would accord with the policies of the Core Strategy 2013, and saved policies of the Borough Plan 2007 and the National Planning Policy Framework (2012).

Impact of proposed development on amenity of adjoining occupiers and surrounding area:

The applicant has attempted to address the reasons for refusal for the previously submitted proposal, the grounds of impact to visual and residential amenities.

Residential Amenity:

Following consultation with The Council's Environmental Health Specialist Advisors, no objections were raised to the Change of Use on the grounds of unacceptable impact to residential amenity, but have recommended conditions in order to add safeguards.

Policy NE18 concerning noise states that attenuation measures will be required where development is considered likely to generate inappropriate noise and/or vibration levels for residential and other noise sensitive areas.

Therefore in the event of an approval being given to the permission it is recommended that a condition be applied for the provision of information to demonstrate that any installed extraction equipment does not reach unacceptable levels of noise that would harm residential amenity to adjacent occupiers, and that of the manager's flat above the restaurant.

The repositioned extraction flue is situated at a distance of over 5 metres from the adjacent residential unit next door at 35 Mountfield Road and is facing away from the shared boundary to help alleviate any impacts from fumes released by extraction equipment.

In addition, as is standard with this type of use in an area with nearby residential accommodation, it is recommended to impose a condition regarding the required installation of and equipment to suppress and disperse fumes and/or smell produced by cooking and food preparation in line with advice received from Environmental Health and to ensure the proposal accords with planning policy in protecting the amenities of nearby occupiers.

New residential accommodation on the opposite side of Mountfield road on the site of the former public house is considered to be sufficient distance from the proposed point of the extraction flue so as not to suffer any unacceptable loss of residential amenity.

Design issues:

The remaining grounds for refusal regarded the impact on visual amenity.

Visual Amenity:

The revised submission has significantly reduced its visual impact by way of internally locating the majority of the duct work for the extraction system and running it up through the both the ground floor and the first floor residential unit.

The remaining flue will be positioned on top of the flat roof, set back from the road toward the Western flank where it will sit partially covered by a parapet running along the external demise of the Eastern and Western flank elevations.

The ducting, at 1 metre in height, is considered not to have an unacceptable visual impact, as it is sensitively positioned back from the road, and of an appropriate size and

scale for the host building and is considered to accord with Policies UHT1 and UHT4 in that there is considered to be no erosion of local distinctiveness as a result of the proposal which is also considered to harmonise with the appearance and character of the local environment.

There are no concerns to visual amenity from the remaining proposed external changes, which included the redesign of the landing platform and stairway for use by the residential flat on first floor level, which although is enlarged from the existing, is considered to be appropriate in its size and use of materials, and will provide an improved access and for the residential unit.

Impacts on highway network or access:

The applicant has provided plans which show the provision of public parking areas in close proximity to the application site and considers that it is sufficient to serve the restaurant in addition to available parking on site.

It is acknowledged that the premises sit on a busy roundabout, but it is not considered that the proposed Change of Use would be significantly impacted by it.

37 Mountfield Road is located within 200 metres of Hampden Park railway station and is situated close to a bus stop which is served by regular buses. In addition the site can easily be reached on foot by a large populous, further reducing the need for private transport to reach the site.

Sustainable development implications:

It is considered that the change of use of the application site complies with policy C7 of the Core local strategy:

‘the ambition for Hampden Park is to increase its levels of sustainability by improving the attractiveness of the built environment and reducing levels of deprivation in the neighbourhood by providing more opportunities for local people to access housing and employment in their neighbourhood.’

The location is considered sustainable due to its proximity to its excellent public transport links, and reasonable walking distances as detailed previously in the report.

By bringing an empty unit back in to use, the applicant is seeking to offer employment opportunities in the area with the creation of 3-4 jobs. The existing unit had been empty for over 2 years, and the lack of occupation has previously led to amenity issues at the site which have been addressed following involvement from The Council.

Under paragraph 17 of the NPPF LPA's are to

‘proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs’ and ‘promote mixed use developments’

Paragraph 18 states:

‘The Government is committed to securing economic growth in order to create jobs and prosperity’

Paragraph 19 states:

‘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. Therefore

significant weight should be placed on the need to support economic growth through the planning system.'

Impact on other local businesses:

It is noted that within a fairly small area in Hampden Park adjacent to the railway line and known locally as 'the village' 11 other food outlets exist. It is considered that there are a variety of different offerings amongst these units, and the proposed introduction of a Turkish meze restaurant with takeaway use adds some further variety, although it must also be noted that once a use has been granted, there would be no control over the type of food offered by future occupants.

There is a mixture of hours of operation and provision of seating with service, amongst the existing food outlets in Hampden Park, so as to consider the proposed scheme a suitable addition to the area, which will bring back an empty unit in to use.

Other Impacts:

Comments received by an objector state concerns as to the proximity of an A5 use in close proximity to Heron Park Community Primary School and also the concentration of A5 uses within the area.

At this time, The Council do not have any planning policy relating directly to either of these factors and therefore cannot form the basis for the restriction of the grant of consent.

The site is located within an Archaeological Notification Area and within a Area of Flood Risk. However, as no invasive ground works are proposed at the location, and as there will be no change to internal floor levels, there are no concerns as to any impact to these considerations.

Human Rights Implications:

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

Conclusion:

The proposed extension is recommended for approval, subject to conditions as it is considered to have minimal impact in terms of visual amenity and an acceptable impact to the amenities of adjacent occupiers and therefore complies with UHT1, UHT4, HO2, HO20 of the Eastbourne Borough Plan (Saved Policies) and Policy 10a of the Eastbourne Core Strategy Local Plan (2013 - 2026) and the guidance outlined within the National Planning Policy Framework (2012).

Recommendation: Approve, subject to the following conditions

Conditions:

1. Time Limit
2. Approved Plans
3. Opening Hours

4. Sound test of internal ducting
5. Installation of equipment to disperse fumes and/or smell
6. Noise Rating levels of extraction to comply with British Standards (Day/Night)

Informative:

- 1) Discharge of Condition of pre-commencement conditions

Appeal:

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.