

Change of use of tattoo shop to an A5 (hot food takeaway)
use, installation of flue to rear and alterations to shop front

Report Item No
A4

68 - 70 Belvoir Road Coalville Leicestershire LE67 3PP

Application Reference
19/00770/FUL

Grid Reference (E) 442451
Grid Reference (N) 313775

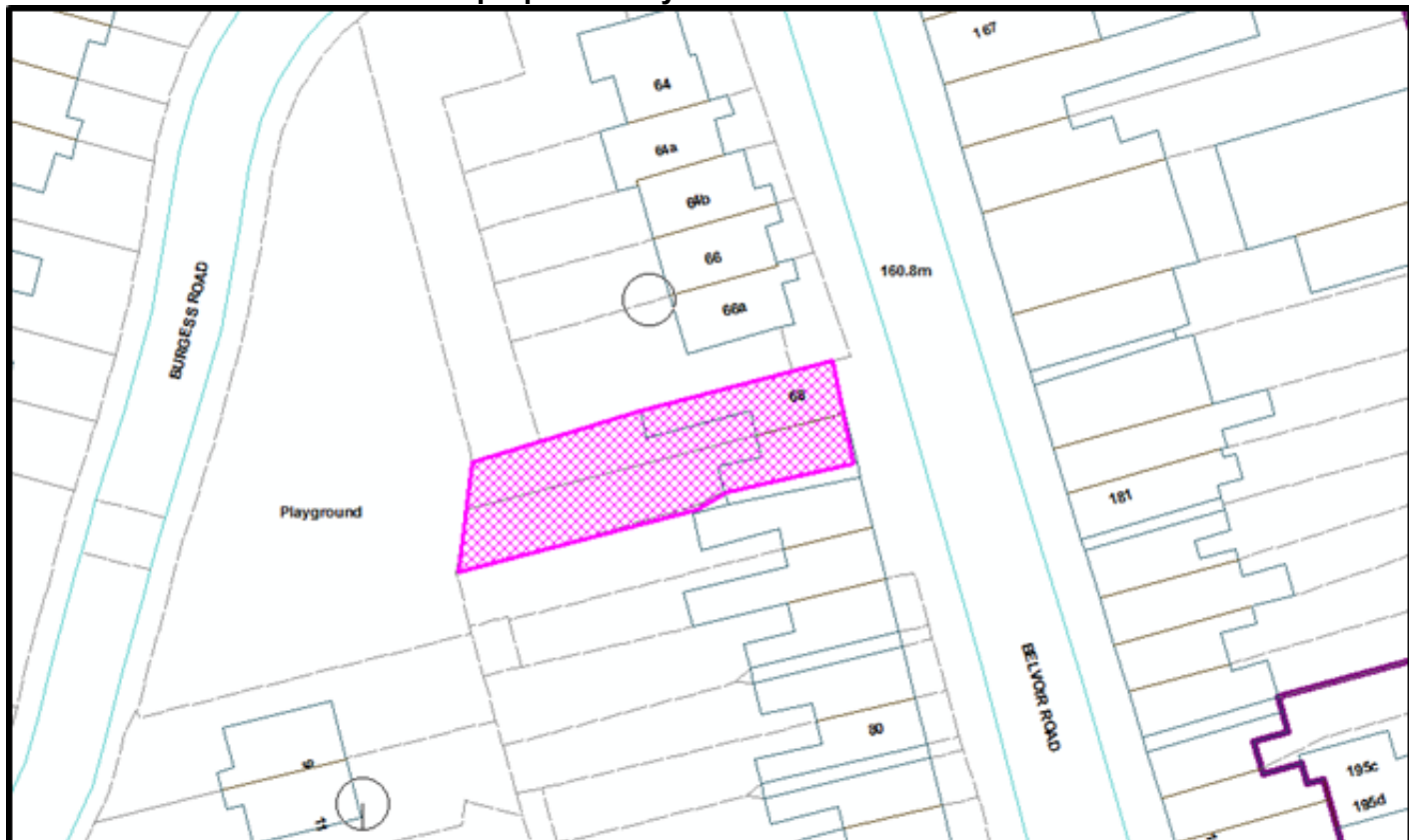
Date Registered:
24 July 2019
Consultation Expiry:
5 September 2019
8 Week Date:
18 September 2019

Applicant:
Mr Ako Babab

Case Officer:
Anna Edwards

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is brought to the Planning Committee as Councillor Geary has requested it be called in on the grounds of highway safety and public concern.

Proposal

Change of use from Tattoo Shop (sui-generis) to an A5 (Hot Food Takeaway) use, installation of flue to rear and alterations to shop front. The proposal includes the installation of a rear flue and new windows, door and tile cladding to the shop front. The site is located to the west of Belvoir Road and is currently vacant.

Consultations

A total of 23 letters of representation have been received objecting to the proposal. All statutory consultees have raised no objections.

Planning Policy

The site is located within the Limits to Development on the Policy Map to the adopted Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The principle of the change of use of this vacant building to an A5 hot food takeaway use is considered to be acceptable. The proposal is not considered to significantly affect residential amenity in the area, have any significant detrimental design impacts or conflict with highway safety. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the development plan and the NPPF. It is therefore recommended that the application be permitted subject to planning conditions.

RECOMMENDATION:-

PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS)

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the change of use of Tattoo Shop (sui-generis) use to an A5 (hot food takeaway) use, installation of flue to rear and alterations to shop front at 68-70 Belvoir Road, Coalville.

The application site comprises the ground floor of a two storey building and outside space to the rear. A residential 3 bedroom flat under the same ownership is at first floor level and does not form part of this application.

The premises is currently unoccupied, with the premises previously being used as a Tattoo Studio/shop which is classified as a sui-generis use. To the west of the building is an area of garden land. The site does not benefit from any off street parking provision.

The site is situated within the defined limits to development but is located some 140 metres outside of the defined Coalville Town Centre.

There are a range of uses within the immediate vicinity of the site, including residential and commercial as well as hot food takeaways.

Internally, the layout of the existing shop/studio would be altered to accommodate the proposed use.

Externally, the application proposes the installation of a flue to the western (rear) elevation. To the shop front, alterations include replacement windows, door and tile cladding to the front elevation.

The application has been accompanied by product specification documents for the extraction unit.

No recent relevant planning history found in relation to this site.

2. Publicity

28 neighbours notified.

Site Notice displayed 15 August 2019.

3. Summary of Consultations and Representations Received

Ward Councillor John Geary called the application in for planning committee consideration. The following concerns were raised in the call in request:-

- Public concern with takeaways in this area of Belvoir Road.
- Highway safety.

Leicestershire County Council Highway Authority - raised no objection.

NWLDC Environmental Protection raised the following environmental observations - The flat should be solely for use by employer/employees of the food business in association with their employment.

Third Party Representations

Letters of objection have been received from 23 individuals, raising the following concerns:-

Principle

- Too many takeaways
- Too much competition

Residential amenity, noise and disturbance

- Not the right location for a takeaway next to tenants homes
- Late night customers
- Antisocial behaviour
- Vulnerable neighbours
- Crime
- Rubbish, rats and vermin
- Smells from cooking
- Noise pollution
- Lack of view

Highway Considerations

- Use of rear access would be unlawful
- Belvoir Road is congested and narrow
- Limited parking for residents in the area
- People will use cars to access the premises
- Use will be hazardous and dangerous
- Parking problems
- Accidents

Other Matters

- Fire risk - Health and safety of nearby properties
- Fence to rear removed without EMH permission

The full contents of all the letters of representation are available for members to inspect on the case file.

4. Relevant Planning Policy

National Planning Policy Framework (2019)

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraph 7 and 8 (Achieving sustainable development);
- Paragraph 11 (Presumption in favour of sustainable development);
- Paragraph 85 (Ensuring the vitality of town centres);
- Paragraphs 127 (Achieving well designed places);
- Paragraph 55, 56 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2017)

The following policies of the adopted Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

S2 - Settlement Hierarchy

D1 - Design of New Development

D2 - Amenity

IF4 - Transport Infrastructure and New Development

IF7 - Parking Provision and New Development

Other Policies/Guidance

National Planning Practice Guidance

Leicestershire Highways Design Guide (Leicestershire County Council)

Good Design for North West Leicestershire SPD - April 2017

Shop Fronts and Advertisements Supplementary Planning Document - June 2019

5. Assessment

Principle

This application proposes to change the use of an existing commercial unit (sui-generis use) to a hot food takeaway (A5 use).

The site is located within the limits to development where the principle of new development and change of use applications are normally considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Coalville benefits from an extensive range of local services and is readily accessible via public transport. The proposal for the change of use to a hot food takeaway establishment is, therefore, considered to score well against the sustainability advice in the NPPF.

The existing site is located outside of the defined main town centre area in the Local Plan. Advice in the NPPF advocates a sequential approach to ensure that town centre uses (such as hot food takeaways) are established in town centre areas where possible. Whilst no sequential assessment has been provided by the applicant in relation to this, the site is located on the edge of the defined town centre and the property is currently vacant. The existing use of the property as a Tattoo Shop offers a service similar to that of a hairdressers or a beauty salon, also sui-generis uses, which would also be directed to the town centre. Therefore, the proposed town centre use, whilst located outside of the main town centre area is not considered to cause any additional harm to the vitality of the main town centre.

Taking all of these issues into account, the proposal is considered acceptable in principle.

Concerns were raised within the letters of objection that there are already too many takeaways/fast food shops, too much competition, enough places to eat and 3 takeaways within 50 yards.

Specifically in relation to the change of use to hot food takeaways, in terms of the principle acceptability, Policy Ec11 1 (a) of the Local Plan requires that clusters of such uses should be avoided. However this is only applicable within defined primary shopping areas. As the

application is located outside of the defined primary shopping area there is no applicable policy restriction on the number of hot food takeaways in the area in principle. Opposition to business competition is not a material planning consideration.

Overall, taking all of these issues into account, the proposal is considered acceptable in principle subject to other material considerations discussed within this report.

Design and Impact upon Character

The proposal includes the installation of an extraction flue to the western/ rear elevation of the property and alterations to the shop front that include new windows, door and tile cladding. The position and design of the proposed extraction equipment has been influenced by its functional requirements. The visual impact of the proposed flue would be limited from Belvoir Road due to the location to the rear of the premises. Views of the flue would be taken from the west from Burgess Road. However, given that the rear garden area separates the proposal from the public realm and that existing built forms would shield views from the north and south it is considered that any impact the proposed flue would have upon the street scene would not be so significant to warrant refusal of the application. The design of the flue is considered to be appropriate for the intended use and acceptable in terms of visual impact upon the property and the surrounding area.

With regard to the proposed alterations to the shop front, the Councils 'Shop Fronts and Advertisements' SPD states that new shop fronts should be designed to respect the character of the building of which they form and the wider street scene. The existing single glazed timber framed window and door openings would be replaced with double glazed aluminium framed windows and door in grey. The replacement window and door frames are considered to be minor and acceptable in relation to the existing building and wider street scene. The proposed grey tile effect cladding to the ground floor of the front elevation is of a similar style to grey cladding that is present on existing properties along Belvoir Road and is also considered to be acceptable in relation to visual amenity.

Overall, the proposal is considered to have an acceptable design that would be in keeping with the character and appearance of the existing building and the surrounding area. Therefore, the proposal is considered to be in accordance with Policy D1 of the adopted Local Plan, the Council's Good Design SPD and the advice contained in the NPPF.

Impact upon Residential Amenity

Concerns have been raised within the letters of representation on grounds that the proposal would result in various unacceptable impacts in terms of residential amenity by way of noise and disturbance, odour and smells, late opening hours, negative health impacts, drunks and unsociable people and litter and vermin.

The site is located in an area characterised predominantly by retail and residential properties. There are residential uses to the first floor of the application site and attached to the southern elevation of the subject premises.

Policy D2 of the Local Plan states that development should be designed to reduce its impacts on residential amenity. Criterion (1) requires that development should not have an adverse impact through loss of privacy, overshadowing or be overbearing and criterion (2) states that proposals should not generate a level of activity, noise, vibration, pollution or odour, which cannot be mitigated to an appropriate standard.

The site is situated at the edge of the defined Coalville Town Centre. In such areas a degree of

noise and disturbance is expected as a direct consequence of the range of uses present. Within the principle section above, it has already been established that a hot food takeaway use would be an acceptable use within the area.

In terms of disturbance, the opening hours for the proposed use would be 12:00-23:00 Monday to Saturday and 15:00-22:00 Sunday and bank holidays. These hours are considered to be later than that of a typical service or retail use and of the previous opening hours of the tattoo shop, which closed at 17:00. The proposal would result in more coming and goings from the premises in the evening time.

The proposed opening hours are consistent with the operating hours of nearby hot food takeaway establishments; for example, opening hours at Wok Express, located at 145 Belvoir Road, are 17:00-0:00 Friday and Saturday, 17:00-23:00 Sunday, Monday, Thursday and closed on Wednesday and at Sun Hing Chinese located at 111 Belvoir Road which are Monday and Wednesday 17:00-23:00, Thursday, Friday and Saturday 12:00-14:00, 17:00-23:00, Sunday 17:30-23:00 and closed Tuesday. As such, it would not be reasonable to impose further restrictions on the opening hours for this property. Subject to a condition restricting the hours of operation to those stated, it is not considered that the proposal would result in a significantly harmful impact in terms of disturbance.

The first floor living accommodation above the proposed hot food takeaway would be subject to potential noise nuisance. However it is noted that the living space is under the same ownership as the subject premises. In order to protect residential amenity for future occupiers of this living space it would be considered appropriate to condition that it is for the use of employer/employees of the food business in association with their business. The applicant has clarified that they will be undertaking the tenancy for the living accommodation should they receive planning permission for the food business. Subject to a condition to tie the living accommodation to the food business, it is considered that potential noise impacts to the living accommodation above or neighbouring properties would not be to a level that would be significantly detrimental or warrant refusal of the application on those grounds.

The site is situated on the edge of the defined Town Centre, where there is a concentration of activity and a level of disturbance from a range of sources over a prolonged period of the day. With the nature of the edge town centre location taken into consideration, it is not considered that the operation of a hot food takeaway would result in any further significant impacts in terms of noise or disturbance.

In terms of noise and odour, the extraction system would be fitted with a carbon filter system to ensure that the air which is expelled is as clean as possible and silencers to keep noise levels to a minimum.

Whilst it is accepted that there is potential for smell/odour issues from the cooking process which could affect neighbouring and nearby properties, the details of the application together with the product specification document for the extraction unit has been considered by NWLDC Environmental Protection who have raised no objection to the proposal. Maintenance of the extraction system would be managed by way of a suitably worded planning condition.

Objections have also been raised on grounds that the proposal would attract drunks and unsociable people. This application proposes a generic A5 use, as such, the unit could therefore be host to a wide range of occupiers. Notwithstanding this, the planning system is unable to control/restrict customers in this regard and, as such, behaviours of the end user. There is no evidence to substantiate these claims and therefore this issue cannot be taken into

consideration in the determination of the application.

Concerns have been raised that the proposal would result in increased litter. Whilst the plans do include bin provision to the rear of the premises, no litterbin provision has been provided for to the frontage. It is considered that there would be adequate space on the site to accommodate such provision and therefore a condition would be imposed to secure the provision and maintenance of both. The imposition of this condition would ensure such concerns are addressed.

It has also been expressed that the proposed use would attract vermin. This is not a material planning consideration. Appropriate refuse facilities would be required to serve the premises, but increased levels of vermin would be subject to control by NWLDC Environmental Health.

It is noted that there has been no recent complaints from the public to the Councils Environmental Protection team, in relation to noise, smell, disturbance or litter at nearby hot food takeaways, Wok Express, Sun Hing Chinese or the Half Way Chippy.

On balance, although the proposal could result in some additional impacts in terms of residential amenity, given that the site is situated within the defined Town Centre, against this backdrop and subject to relevant conditions, any impacts over and above those existing are not considered to result in a material level of harm that would warrant refusal of the application on these grounds. No objections are raised by NWL Environmental Protection.

There are no other materially harmful impacts identified in this regard that would result in the scheme being unacceptable on such grounds. Therefore, the proposed development is considered to be in accordance with Policy D2 of the adopted Local Plan and the Council's Good Design SPD.

Highway Considerations

Numerous objections have been raised within the letters of objection on highway safety grounds and on the basis of inadequate parking provision.

The subject site does not benefit from any off street parking provision. It is noted that the applicant had originally intended to use the existing access to the rear of nos 64 to 66a to access the rear garden of the subject premises. It has been established during the course of the application that the landlord/applicant has no legal right of way or legal access to the rear. The highway to the property frontage is no parking enforced by double yellow lines. The opposite side of the road is of single yellow line, unrestricted waiting after 18:00. The application proposes a delivery service, initially comprising a maximum of two vehicles.

Letters of objection raise concern that accidents are happening. The Local Highway Authority (LHA) has been consulted on the application and they refer to relevant personal injury collisions (PIC's) data produced. There have been 12 recorded PIC's over the last five years within 500m of the site on Belvoir Road. Of PIC's recorded, no further details were received by the LHA with regards to one incident, one occurred following a domestic argument and one involved a driver dazzled by the sun. Three PIC's occurred at the roundabout junction of Avenue Road and Belvoir Road and one involved an overtaking vehicle. Given the trend in the decline of incidents that have occurred and the lack of common causation factors, the LHA does not consider that the development proposal would exacerbate the likelihood of further such incidents occurring. There have been no PIC's on Burgess Road within the last five years.

Letters of objection also raise concern that vehicles would block accesses and park on the road. Belvoir Road is subject to a comprehensive package of waiting restrictions; outside the premises is a no waiting at any time restriction, and opposite is a no waiting Monday - Saturday 8am - 6pm restriction. Parking violations cannot be pre-empted as a result of the proposal. Should restrictions be violated this would be enforced by Civil Enforcement Officers.

The LHA does not have specific parking standards relating to Use Class A5. Whilst the standards applied by other local highway authorities do not apply in Leicestershire, the LHA is aware that there are other authorities which do have parking standards for this Use Class; that being 1 space per 20sqm, which has been identified as both a minimum and a maximum standard at other authorities.

The floor area of the premises is 82sqm and therefore based on the standards referred to above, it would be reasonable to expect that the development proposal would result in the demand of 4 parking spaces. It is noted however, that the current use of the premises as a tattoo shop (sui generis) also does not have specific parking standards. The tattoo shop could re-open, without planning permission, which would also have no parking provision.

There is a public car park located approximately 250 metres from the site, which equates to an approximate 3 minute walk. In addition to this, the premises is located approximately 500 metres from the town's shopping centre, therefore providing opportunity for both employees and customers to access the site by means other than private motor car. By virtue of its central location, the site is also within walking distance of the settlement it would serve.

The LHA is satisfied that due to the presence of existing on-street parking controls, and considering the existing use of the premises, that the operation of the highway network should not be detrimentally effected by the proposals and could therefore not substantiate a reason for refusal on highway grounds.

Paragraph 32 of the NPPF advises that applications should only be refused on highway grounds where the cumulative impacts are severe. On the basis of the above, it is not considered that the proposal would conflict with the principles of this paragraph or the aims of Policy IF4 or IF7 of the adopted Local Plan.

Other Issues

Other issues that have been raised in the letters of objection include the proposal resulting in a fire risk.

Fire safety is not in the control of planning parameters. However, under the Regulatory Reform Fire Safety Order 2005 a suitable and sufficient risk assessment needs to be carried out by a responsible person as defined at Article 3 of the Order such persons being employers and/or building owners or occupiers and it must be kept up to date. On the basis of this information, it is recommended that a note to applicant is attached to any planning permission granted to ensure that the applicant is made aware of these fire safety requirements.

Neighbour letters of objection raised concern that the fence to the rear (owned by East Midland Housing) had been removed without permission. This is a private civil matter between the landlord/ applicant and the owner of the fence. This is not a material planning consideration and as such this concern has no bearing on the council's decision-making process.

In respect of all other matters reported in the third party representation section above that have

not been addressed in the assessment section of this report, these are not considered to be material planning considerations and have no bearing on the decision making process.

Conclusion

The principle of a new takeaway use in this location is deemed acceptable. In the case of this application the proposal is not considered to have any significant detrimental design, residential amenity or highway related impacts. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is considered to comply with the relevant policies in the adopted Local Plan and the advice within the NPPF. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION - PERMIT subject to the following conditions:-

1. Time limit
2. Approved plans
3. Hours of operation
4. Living accommodation for employer/employees of food business
5. Maintenance of extraction system
6. Provision of a scheme providing/maintaining commercial waste and a litterbin