

Location:           **103 Bancroft  
Hitchin  
Hertfordshire  
SG5 1NB**

Applicant:           **Mr Rowan Patel**

Proposal:           **Change of use of ground floor from financial and professional services (formerly Use Class A2, now Use Class E) to a mixed use of cafe/restaurant (Use Class E) and hot food takeaway (Sui Generis). Internal alterations. (As amended by details of recirculation unit and plan 2202-5-LMH-Proposed received on 15/02/2021)**

Ref. No:             20/03038/FP

Officer:             **Thomas Howe**

**Date of expiry of statutory period:**

15/02/2021

**Submitted Plan Nos.:**

2202-5-LMH-Proposed Floor Plan amended received 15 February 2021  
Location plan  
092 020  
092 022 Elevations as proposed (rear) amended received 25 February 2021  
2202-3-LMH  
2021-3-LMH

**Extension of statutory period:**

15 April 2021 – agreed by agent on 05/03/2021.

**Reason for referral to Committee:**

This application, together with 20/03039/LBC are to be determined by Planning Control Committee by reason of a call-in request by Councillor Ian Albert if the recommendation was to grant. The reasons given for the call-in are:

*I am objecting to the change of use, in what is already an overcrowded takeaway area in Bancroft, with considerable noise, smell and parking issues.*

*Clearly, if you are minded to refuse the application, then it would not need to go to Committee.*

*I do wish to provisionally call in the flue application as well. Recent history shows that external extraction flues in this area have been inadequate to cope with the level of trade and insufficiently tall to remove the smells from neighbours.*

## 1.0 **Site History**

- 1.1 20/03039/LBC - Internal and external alterations (as amended by plan 2202-5-LMH-Proposed received on 15/02/2021) – Concurrent Application
- 1.2 20/02797/AD - Replacement externally illuminated fascia sign – Conditional Consent
- 1.3 20/02792/LBC - Replacement externally illuminated fascia sign – Conditional Consent
- 1.4 08/00417/1EUD - Lawful Development Certificate (Existing): Continued use of ground floor of premises as hot food take-away outlet (Class A5) – Granted
- 1.5 97/01269/1 - Retention of ventilation duct to side Roof slope – Consent
- 1.6 97/01057/1LB - Retention of ventilation duct to side roof slope – Consent
- 1.7 88/00049/1 - Change of use from shop to Estate Agents. – Conditional Permission

## 2.0 **Policies**

### 2.1 **North Hertfordshire District Local Plan No.2 with Alterations**

Policy 8 – Development in Towns  
Policy 42 – Shopping  
Policy 43: Shopping areas in town centres  
Policy 55 – Car Parking Standards

### 2.2 **National Planning Policy Framework**

Chapter 6 – Building a strong, competitive economy  
Chapter 7 – Ensuring the vitality of town centres  
Chapter 8 – Promoting healthy and safe communities  
Chapter 12 – Achieving well-designed places  
Chapter 16 – Conserving and enhancing the historic environment

### 2.3 **North Hertfordshire Draft Local Plan 2011-2031 - (Approved by Full Council April 2017)**

SP4 – Town Centres, Local Centres and Community Shops  
ETC2 – Employment development outside Employment Areas  
ETC3 – New Retail, leisure and other main town centre development  
ETC5: Secondary Shopping Frontages  
D1 – Sustainable Design  
D3: Protecting living conditions  
T2 – Parking  
HE1 – Designated heritage assets

### 3.0 **Representations**

#### 3.1 **Site Notice:**

Start Date: 29/12/2020      Expiry Date: 21/01/2021

#### 3.2 **Press Notice:**

Start Date: 07/01/2021      Expiry Date: 30/01/2021

#### 3.3 **Neighbour Consultation:**

The occupiers of No 102, 102A, 102C, First Floor Flat 103, 103B, 103C, 104, 105 Bancroft and 1, 8, Ransom Yard were notified on 22/12/2020.

11x Objection were received which raised the following points:

- Objection on grounds of new takeaway presence due to existing and future takeaways within this line of shops.
- Existing outlets result in litter, foul smells loitering and parking issues.
- Negative impact upon character and visual amenities of Conservation Area.
- Concern about illegal parking and blocking of highways and footways
- Issues surrounding delivery methods and damage to pavement
- Late night noise disruption
- Queues blocking pavement and resulting in insufficient space to socially distance.
- Vehicles blocking resident parking
- Abuse of local residents from patrons to existing eateries
- Issues of smells from existing and proposed outlets

#### 3.4 **Statutory Consultees:**

##### 3.4.1 Hitchin Forum – Objection:

- Highlights importance of appearance and streetscape of Bancroft and concern raised by neighbouring occupiers.
- Raised concern with external flue initially proposed
- No proposals seek to aid in double glazing nearby residential dwellings to reduce noise impacts

##### 3.4.2 Environmental Health - 24/02/2021:

- Waste disposal – satisfactory
- Odour – Internal discharge is welcomed and addresses previous concerns of impact on neighbouring residents
- Noise – Omission of external flue extractor raises no plant noise concerns. Requested revised opening hours to: Monday to Thursday of 8.00hrs to 22.00hrs and Friday and Saturday an end time of 22.00hrs. Sunday and Bank Holiday – No operation.

##### 3.4.3 NHDC Conservation Officer:

- No Comment received

#### 4.0 **Planning Considerations**

#### 4.1 **Site and Surroundings**

- 4.1.1 103 Bancroft is a single storey ground floor retail unit situated on the eastern side of Bancroft. The property is Grade II Listed and is situated within the Hitchin Conservation Area. The existing use of the ground floor is Class E.

#### 4.2 **Proposal**

- 4.2.1 Planning permission is sought for the change of use of the ground floor from financial and professional services (formerly Use Class A2, now Use Class E) to a mixed use of cafe/restaurant (Use Class E) and hot food takeaway (Sui Generis). Permission is also sought for internal alterations as amended by details of recirculation unit and plan 2202-5-LMH-Proposed received on 15/02/2021.

#### 4.3 **Key Issues**

- 4.3.1 The key issues for consideration are as follows:

- The principle of development
- The acceptability of the design of the proposed development and its resultant impact on the character and appearance of the Hitchin Conservation area.
- The impact that the proposed development would have on the living conditions of neighbouring properties.
- The impact that the proposed development would have on the parking provision and highway safety.

##### Principle of Development

- 4.3.2 The NPPF states that significant weight should be placed on the need to support economic growth and furthermore, the emerging local plan seeks to support new businesses.

- 4.3.3 This part of Bancroft is designated secondary shopping frontage under the existing and emerging Local Plan. Policy ETC5 of the emerging Local Plan states that in areas of secondary shopping frontage, planning permission will be granted at ground-floor level:
- a. for retail, professional services and restaurants (A1, A2, A3, A4 and A5)*
  - b. exceptionally for other main town centre uses if it does not individually or cumulatively, undermine the retail function of the centre, or detract from the centre's vitality and viability.*

As such the proposal is appropriate to the area in terms of use, size, scale, function, catchment area, historic and architectural character and there would be no significant adverse impact upon living conditions subject to the imposition of the hours of use as agreed with Environmental Health. It is acknowledged that extensive objections were received from neighbours to the site raising issue with the presence of existing takeaways and eateries along Bancroft, however, there is no in principle objection to that proposed at No. 103.

- 4.3.4 As the site is situated within Hitchin Town Centre and would complement retail and town centre functions and not have an adverse effect on the vitality or viability of the area. The proposed development would provide and promote employment and is considered to be acceptable in principle.

Character and Appearance and Impact on Designated Heritage Assets:

- 4.3.5 The application site is both a Grade II Listed Building and is situated within the Hitchin Conservation Area. No consultation response has been possible from the Conservation Officer. Given the nature of the proposed alterations to the structure, no historic fabric would be impacted by the proposal and no alterations would occur to the building as viewed from the public realm. The proposal would therefore contribute no unacceptable impact upon the character and appearance of the building or this part of the conservation area.

Impact on Neighbouring Amenity:

- 4.3.6 This application has raised significant concerns with neighbours pertaining to the addition of an extractor flue as originally proposed, potentially resulting in unacceptable levels of smell and noise impacts to occupiers in proximity. The proposal was amended and now includes no external extractor flue, being an entirely self-contained and integrated unit that does not emit fumes externally. This would result in no noise or smell impacts and would overcome noise and smell concerns raised by the Environmental Health officer and consultees. Environmental Health is satisfied with this aspect.
- 4.3.7 With regards to noise from patrons, Environmental Health requested opening hours be limited to 0800 to 2200 on Mon-Sat. and that no operation be undertaken on Sunday or Bank Holidays. The surrounding area comprises town centre location with a variety of opening times, some of which are open later than 2200 and therefore it is considered that the proposed addition of an outlet at No. 103 is unlikely to contribute additional levels of noise within the late evening. The applicant has requested opening hours on Sunday and Bank Holidays to be from 0900 to 1400, which does not accord with the comments raised by the Environmental Health officer. Based on recently approved hours within Bancroft, which exceed those requested at No. 103, it is considered that opening of the premises at No. 103 during these hours would not be significantly detrimental to neighbour amenity and is therefore acceptable.

Parking and Highways

- 4.3.8 The proposed information does not identify the use of car parking facilities that are related to this unit. Given that the site is within Hitchin Town Centre, it is considered to be in a sustainable location with parking facilities and public transport nodes in proximity to the site. The provision of existing short stay car parking spaces in the vicinity of the application site and car parks close by would positively reinforce this.
- 4.3.9 Issue has been raised both by Ward Councillors and by local residents with regards to the behaviour of some patrons to the line of shops, with concern being raised that issues of antisocial behaviour may be exacerbated by the opening of an additional outlet. The opening of a new food outlet may exacerbate these issues; however, no certainty can be given to the extent to whether if or how much this will increase. The issues of inconsiderate and unlawful parking on pavements and in front of residential

accesses is a parking enforcement matter and not planning. This matter should be raised with Hertfordshire Highways and/or the police. Based on existing decisions along Bancroft, officers have found it difficult to enforce and word to suitably meet the provisions of paragraph 55 of the National Planning Policy Framework (to ensure conditions are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects). To ease this issue, an informative has been agreed with the applicant and is included in this decision:

***The applicant is advised to display signage in the shop window requesting that customers park considerably, adhering to relevant highway & parking restrictions in place, when frequenting the restaurant and hot food takeaway hereby permitted. Such signage is to be displayed prior to the first use of the hot food takeaway and maintained as such in perpetuity.***

#### 4.4 **Conclusion**

- 4.4.1 In the absence of material planning reasons to the contrary it is my view that planning permission is **GRANTED**.

#### 4.5 **Alternative Options**

- 4.5.1 None applicable

#### 4.6 **Pre-Commencement Conditions**

- 4.6.1 No pre-commencement conditions are recommended.

#### 5.0 **Legal Implications**

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

#### 6.0 **Recommendation**

- 6.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

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

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. Opening hours of the cafe/restaurant (Use Class E) and hot food takeaway (Sui Generis) hereby permitted shall only be permitted between 08.00hrs and 22.00hrs Monday to Saturday and shall only be permitted between 09.00hrs and 14.00hrs Sunday and Bank Holidays.

Reason: to protect the residential amenities of existing residents.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Informative

The applicant is advised to display signage in the shop window requesting that customers park considerately, adhering to relevant highway & parking restrictions in place, when frequenting the restaurant and hot food takeaway hereby permitted. Such signage is to be displayed prior to the first use of the hot food takeaway and maintained as such in perpetuity.