

ITEM NO:	<u>Location:</u>	1-3 The Mead Hitchin Hertfordshire SG5 1XZ
	<u>Applicant:</u>	Mr J Patel
	<u>Proposal:</u>	Part change of use from Class A1 (Retail) to create separate Class A5 (Hot Food Takeaway). Alterations to shopfront and erection of external fume extraction flue.
	<u>Ref. No:</u>	18/00278/FP
	<u>Officer:</u>	Tom Donovan

Date of expiry of statutory period: 18.04.2018

Date of expiry of statutory period:

18 April 2018 (extension of time until 01 June 2018)

Reason for Referral to Committee

Councillors Billing and Albert 'called-in' the application in the wider public interest.

Submitted Plan Nos

Location T1-01 T1-02 T1-03 T1-04 T1-05 T1-06 T1-07

1.0 Policies

1.1 North Hertfordshire District Local Plan No.2 with Alterations

Policy 8 – Development in Towns
Policy 55 – Car Parking Standards

1.2 National Planning Policy Framework.

Section 8 – Promoting healthy communities
Section 7 - Requiring good design
Section 11 – Conserving and enhancing the natural environment

1.3 Emerging Local Plan 2011-2031 (Approved by Full Council 11th April 2017).

Strategic Policies

SP1: Sustainable Development in North Herts
SP2: Settlement Hierarchy
SP3: Employment

SP9: Design and sustainability
SP10: Healthy Communities.

Development Management Policies

ETC7: Scattered local shops and services in towns and villages
D1: Sustainable Design;
D3: Protecting living conditions;
T2: Parking

1.4 Supplementary Planning Document

Vehicle Parking at New Development September 2011

2.0 Site History

2.1 None relevant.

3.0 Representations

3.1 Local residents/public notice

Objections received from residents in The Mead, Lammas Mead, Shepherds Mead and Old Hale Way. Common objections included the following:

- Traffic congestion/ parking issues related to customer and goods/service vehicles
- Litter/ vermin
- Odour and noise as a result of the extraction system
- Anti-social behavior
- Negative effect on property values
- Too many fish and chip shops in the locality
- Noise and disturbance due to opening hours
- Unsuitable location near to schools
- Diet/wider health concerns
- Fire safety concerns
- Flue would be harmful in design terms.

3.2 Highways

No objection.

3.3 Environmental Health

No objection subject to recommended conditions.

3.4 Waste

No objection.

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 1-3 The Mead is the ground floor section of a detached building which is currently fully occupied by 'SPAR' and operates as an A1 retail unit. Residential units are situated above. The building is located in close proximity of residential properties in The Mead, Lammas Mead, Old Hale Way and Shepherds Mead.

4.2 Proposal

- 4.2.1 Part change of use from Class A1 (Retail) to create separate Class A5 use (Hot Food Takeaway). Alterations to shopfront and erection of external fume extraction flue.

4.3 Key Issues

- 4.3.1 The key issues for consideration are as follows:

- Whether the part change of use would be acceptable in principle.
- The effect on the living conditions of neighbouring properties.
- The effect on the character and appearance of the area
- The effect on the safe operation of the highway and car parking provision in the area.

4.3.2 Principle of the part change of use

The application building is located within the ground floor section of a two storey building currently in mixed use with a retail use operating from the ground floor and residential flats above. The retail unit is somewhat isolated with no other such units located within close proximity to the site. Indeed the area is best characterised as a residential area although I note that an employment zone lies to the east of the site in Bury Mead Road.

- 4.3.3 Due to its location, there are no Saved Local Plan Policies which are applicable to the change of use of the building. As such, there is no objection to the principle of the part change of use as the Saved Local Plan is silent on this matter.

- 4.3.4 Emerging Policy ETC7 sets out the Council's proposed policy with regards to *scattered local shops and services in towns and villages*. However, it should be noted that the Emerging Plan should currently be attributed only limited weight as the Council is yet to receive the Inspector's Report and is therefore unaware as to the extent of any unresolved objections that may be highlighted. In any case, I propose to examine the extent to which the proposal is compliant with the Emerging Plan.

- 4.3.5 Emerging Policy ETC7 states that proposals for small-scale shops and services will be granted within existing settlements to serve the local community as an exception to the sequential approach set out in Policy ETC3(a). Moreover, ETC7 suggests that proposals for changes of use would only be acceptable if a) there is a replacement use within walking distance, and b) the proposed replacement use would complement the function and character of the area.

4.3.6 The proposal would only involve a part change of use and the existing retail use would remain therefore negating the requirement to establish the proximity of a replacement use. Moreover, in general terms, I consider that the take-away use would complement the function and character of the area. I therefore find that the proposal would be compliant with Emerging Policy ETC7 although, to re-iterate, only limited weight can be attributed to this Policy at this stage.

4.3.7 Impact on neighbouring properties

A key issue in the consideration of this application is the impact that the proposed use and the technical matters relating to odour and noise would have on the living conditions of residential properties that are located near to the site.

4.3.8 I have sought advice from the Senior Environmental Health Officer regarding the issues set out in para. 4.3.7 and I have been advised that any concerns are able to be resolved by including conditions that require details of the following to be submitted prior to commencement:

- *Noise Survey:*
- *Details of extraction system.*

The following conditions are also proposed:

- *Goodsdelivery times restricted to between 08.00hrs and 20.00hrs Monday to Friday, 09.00hrs and 18.00hrs Saturdays and no deliveries on Sundays and Bank Holidays.*
- *Hours of operation restricted to between 10.00hrs and 22.00hrs Monday to Sunday.*

4.3.9 Requiring the noise survey and the details of the extraction system prior to the commencement means that an unsatisfactory system that leads to odour and/or noise concerns is not able to be installed and used. In short, only a system that does not cause a nuisance would be approved and be installed for use at the premises. It is considered that the recommended conditions would ensure that the proposed use would not cause any material harm to the living conditions of any of the neighbouring properties.

4.3.10 It is considered that the recommended conditions would ensure that the proposed use would not cause any material harm to the living conditions of any of the neighbouring properties.

4.3.11 Anti-social behaviour

There is some concern regarding the proposed operating hours of the unit and the potential for anti-social behaviour as a result. However, whilst clearly the proposed use would draw people to the unit for the duration of the operating hours of the premises, there is no conclusive evidence that such a problem exists with regards to the existing retail unit or that the proposed use would result in such an outcome. I therefore attach limited weight to this particular issue.

4.3.12 Litter and waste

Littering is another related anti-social concern and I quite understand that in many regards it would be unacceptable for waste to be disposed of indiscriminately. One bin is located outside 1-3 The Mead and this would go some way to alleviating any potential concern in this regard. In terms of the proposed storage and disposal of waste I have been advised by the applicant that waste will be stored in the alleys to the side and rear of the building. Notwithstanding these comments, I would like more certainty prior to the commencement of the use and therefore recommend a condition requiring further details of the measures required to deal with litter and waste.

4.3.13 Impact on the highway

Hertfordshire County Council Highways have assessed the proposal and do not believe that the proposal would result in an undue impact on the safe operation of the highway. I am minded to agree with this view as I do not consider that any increased traffic would have a significant impact on the local road network whilst parked cars are able to use the parking bay located nearby. I note concerns raised by residents that the proposal would likely increase the volume of traffic. I accept that there will likely be a busier period between say 6 and 9 but for many hours of the day the intensity of the use is likely to be quite low. Moreover, given the location of the site within a residential area, it is likely that many customers would travel to the unit by foot or bicycle thereby likely reducing the number of parked cars related to this use in the area at any one time.

4.3.14 Whilst I can accept that the unit is likely to give rise to extra vehicles in the area, I agree with my Highways colleague that the use would not have a significant impact on the safe operation of the local road network.

4.3.15 Design

The proposed alterations to the shopfront would clearly have some visual impact but I do not consider that any visual harm would result. The installation of the large flue to the flank wall of the building would have some negative visual impact inherent in its utilitarian nature. However, the existing building is not particularly attractive nor is the area on the whole particularly visually sensitive. As such I do not consider that the installation of the flue would cause such harm to the character or appearance of the area that it would merit refusal.

4.3.16 Other matters

A number of the comments received in response to this application raise concerns which are not material planning considerations. These include:

- Fire safety concerns (this is a matter for Building Regulations);
- Impact on property values;
- Diet/health concerns;
- Proliferation of other similar units near to the site or within Hitchin;
- Unsuitable location near to a school.

4.4 **Conclusion**

4.4.1 The principle of the part change of use would be acceptable when judged against the aims of the Local Plan and the National Planning Policy Framework. Moreover, the Environmental Health team are satisfied that, subject to recommended conditions 3-6 (see below) being imposed on any consent, the proposed development would not cause harm to the living conditions of properties in close proximity to the site. Lastly, Hertfordshire County Council have not raised an objection and therefore I am satisfied that the proposed development would not cause harm to the safe operation of the highway.

4.4.2 Paragraph 14 of the National Planning Policy Framework states that, 'where the development plan is absent, silent or relevant policies are out-of-date' permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits'. In my view, any adverse impacts considered either individually or cumulatively, would not significantly and demonstrably outweigh the benefits and therefore I recommend approval.

4.5 **Alternative options**

4.5.1 None applicable.

5.0 **Recommendation**

5.1 Planning permission is **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. Prior to the commencement of the development the developer shall carry out a noise survey following the guidelines set out by BS4142: 2014. This survey shall take into account all proposed plant as part of the development and shall include noise control measures which should be submitted for written approval by the Local Planning Authority (LPA). No plant shall be installed and operated at the site until the noise survey has been approved by the LPA. Noise mitigation measures shall be such as to achieve 5dB below existing background noise levels.

Reason: to protect the residential amenities of existing residents.

4. Prior to the commencement of the use and the installation of the kitchen extract ventilation system hereby permitted, details of the proposed system to be used as part of the development shall be submitted to the Local Planning Authority for approval. The extract ventilation system shall incorporate a three stage carbon filtration or similar system. Following approval and installation, the system shall thereafter be permanently maintained as per the approved specification.

Reason: To protect the residential amenities of existing residents.

5. Goods vehicle deliveries and refuse vehicles shall only be permitted between 08.00hrs and 20.00hrs Monday to Friday, 09.00hrs and 18.00hrs Saturdays and no deliveries on Sundays and Bank Holidays.

Reason: To protect the residential amenities of existing residents.

6. Hours of use of the A5 unit shall be between 10.00hrs and 22.00hrs Monday to Sunday.

Reason: To protect the residential amenities of existing residents.

7. Prior to the commencement of the use hereby permitted, details of measures to deal with litter and waste arising from the proposed use shall be submitted to and approved in writing by the Local Planning Authority. The details as approved shall be implemented prior to the first use, and thereafter retained.

Reason: To ensure that the proposed development would not harm the wider amenity of the area.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively 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) Order 2015.

Informative/s:

- 1) Construction hours
During the change of use phase no construction activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-13:00hrs and Sundays and Bank Holidays: no work at any time.