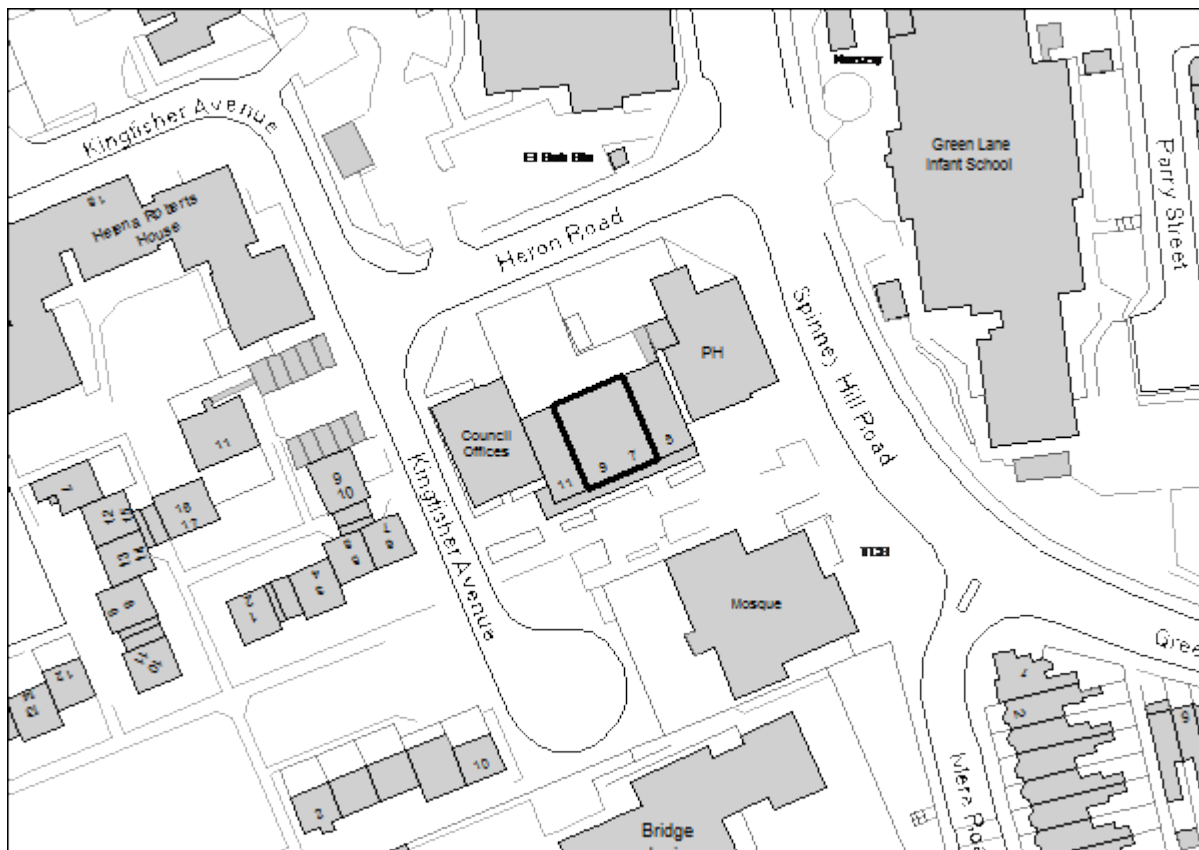


Recommendation: Conditional approval	
20191267	7-9 CHARNWOOD WALK
Proposal:	CHANGE OF USE FROM SHOP (CLASS A1) TO RESTAURANT AND CAFE (CLASS A3) AND HOT FOOD TAKEAWAY (CLASS A5), INSTALLATION OF FLUE AT REAR; INTERNAL ALTERATIONS
Applicant:	MR F DIAS
View application and responses:	https://planning.leicester.gov.uk/Planning/Display/20191267
Expiry Date:	25 October 2019
SSB	WARD: North Evington



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Summary

- Before Committee because objections have been received from more than 5 addresses.
- 13 objections and a petition with 20 signatures received raising concerns about residential amenity, character of area, concentration of food establishments and parking.
- The main issues are the principle of use and amenity.
- Recommended for approval.

The Site

The application relates to a single storey building operating as a shop within a primarily residential area. It is located close to the Green Lane Road Local Shopping Centre.

The other buildings within this small parade comprise shops, a mosque, housing office and The Charny Public House. Some on street parking is available close to the site on Heron Road and Charnwood Walk.

Background

19981386 Change of use of shop (Class A1) to financial services (Class A2) approved but not implemented.

The Proposal

Planning permission is sought for a change of use of the ground floor shop to a restaurant/cafe and a take-away (Classes A3\A5) with the opening hours of 0900 to 2300 daily. The application states that the proposal would provide employment for 6 staff.

The extractor flue would terminate 1m high above the existing flat roof. Waste bins are proposed to be stored at the rear of the building.

There is no provision for off-street parking.

Policy Considerations

NPPF

Paragraphs 2 and 11(Presumption in favour of Sustainable Development)

Paragraphs 108 and 109 Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Development Plan policies

Development plan policies relevant to this application are listed at the end of this report.

Supplementary Planning Documents (SPD)

Residential Amenity SPD

Appendix 01 – City of Leicester Local Plan

Consultations

Noise and Pollution Team: Raise potential concerns relating to noise and odour pollution but consider that these could be mitigated by the attachment of conditions that would deal with noise, hours of use and installation of the flue and its maintenance.

Representations

13 objections and a petition with 20 signatures have been received raising the following issue: -

- Residents not notified (*site notices displayed and letters were sent to neighbours*)

- Impact on residential amenity and general amenity in terms of noise, disturbance, litter and odours.
- Anti-social behaviour from existing uses
- Impact on character of the local centre due to rodents and litter.
- The pub already serves food (*competition not a material planning consideration*).
- Drug use in the locality (*not a material planning consideration*).
- Lack of adequate parking and traffic issues and
- Concentration of food outlets.

Consideration

The site is not in a defined local shopping centre and is already in a retail use and within a small parade of buildings providing local facilities. I therefore consider the use acceptable in principle.

Residential Amenity (neighbouring properties)

Policy CS03 of the Leicester Core Strategy (2014) states that development must respond positively to the surroundings and be appropriate to the local setting and context. Saved Policy PS10 of the Local Plan (2006) includes noise, smell, air pollution, the visual quality of the area including potential litter problems as amenity factors that will be considered when determining planning applications.

Saved Policy PS11 states that proposals with potential to pollute by reason of noise, dust, vibration and smell will not be permitted unless the health and amenity of neighbours and the wider environment can be assured.

Saved Policy R05 states that food and drink use within the shopping centres shown on the proposals map will be permitted except where there would be harm (individually or cumulatively with other Class A3, A4 and A5 uses) to amenity, the applicant has demonstrated that a satisfactory ventilation flue can be provided. Pollution Control raise no objection to the proposal in this respect.

The proposed use could give rise to levels of noise with the general comings and goings of customers to and from the premises particularly late at night. I accept that such impacts of the proposed use may be greater at more sensitive times (evenings and weekends) than the current retail use, but not significantly.

The current application includes the provision of a flue ventilation system for the restaurant use. Having regard to the observations of the Council's Noise and Pollution Control team, I am satisfied that the proposed flue is acceptable and the general disturbance to residents is likely to be minimal. However, I consider it reasonable and necessary to attach a condition to control the installation and maintenance of the flue on the site. This is to protect the amenity of nearby residents in terms of noise and odours.

I therefore consider it reasonable and necessary to control the hours of use (in terms of use by customers) via a condition of planning permission. Given the site is close to the local shopping centre and to be consistent with other sites, a condition restricting the hours of 07:30-23.00 (daily) is appropriate. Staff activity outside of the controlled hours would, I consider, not give rise to unacceptable impacts.

I do not consider that the proposed use as a restaurant/cafe and take-away is likely to pose an unacceptable risk of litter from customers. No details of bins for use by customers have been provided and therefore recommend a condition to secure this.

There is adequate space within the rear yard for bin storage to take place and I consider it reasonable and necessary, in the interests of residential amenity, to secure details of bin storage as a condition of planning permission.

I conclude that proposal would comply with Policy CS03 of the Leicester Core Strategy (2014) and saved Policies PS10, PS11 and R05 of the Local Plan (2006) and is acceptable in terms of residential amenity.

Character and Appearance

Policy CS03 of the Leicester Core Strategy (2014) states that good quality design is central to the creation of attractive, successful and sustainable places, and that high quality, well designed developments that contribute positively to the character and appearance of the built environment are expected. It goes on to require new development to meet the highest standards of accessibility and inclusion.

Saved Policy PS10 of the Local Plan (2006) states that the ability of the area to assimilate development in terms of amenity factors will be considered when determining planning applications. Saved Policy R03 states that retail development within existing centres will be required to demonstrate that the scale and design is sympathetic to the character of the area (amongst other criteria). Saved Policy R05 states that food and drink uses within the shopping centres shown on the proposals map will be permitted except where a shop front is not retained (amongst other criteria).

The proposal is for a change of use with no physical alterations to the shop front. As such I consider the development would not alter the appearance of the building within the local parade. The proposal includes the installation of a flue the impact of which is minimal as it projects only 1m above the roof of the premises, the visual impact of is acceptable in terms of character and appearance.

I consider the proposed development would not give rise to any unreasonable impacts in terms of the character of the local area. I consider the proposal would accord with Core Strategy policy CS03 and policies R05 and PS10 of the City of Leicester Local Plan.

Access, Parking and Highway Safety

Policy CS14 of the Leicester Core Strategy (2014) states that development should be accessible to all future users, including those with limited mobility, and should be accessible by alternative means of travel to the car.

Saved Policy AM01 of the Local Plan (2006) states that planning permission for development will only be granted where the needs of pedestrians and people with disabilities have been successfully incorporated into the design. Saved Policy AM02 states that planning permission will only be granted where the needs of cyclists have been successfully incorporated into the design. Saved Policy AM11 gives effect to published car parking standards for non-residential development. However, I consider requiring cycle parking at the premises would be impractical as there is adequate space for the parking of cycles to the frontage which is already pedestrianised.

Saved Policy R05 states that food and drink uses within the shopping centres shown on the proposals map will be permitted except where there would be parking and traffic problems (individually or cumulatively with other Class A3, A4 and A5 uses) (amongst other criteria).

Appendix 01 of the Local Plan (2006) sets out guideline maximum standards for car parking. For restaurants outside of the central commercial zone, Appendix 1 calls for 2 car parking spaces where the floorspace would be up to 100 square metres.

In common with most other business properties within this parade, the application property has no off-street car parking and consequently the proposal would rely on existing on-street spaces. Based on the current use of the ground floor as retail shop a standard maximum requirement is that 2 car parking spaces would be required. This proposal also generates a requirement for 2 car parking spaces. As such having regards to the existing and proposed requirements, I consider the proposal would not lead to an unacceptable increase in demand for on-street car parking, nor any significant level of highway harm.

Deliveries and servicing would also need to take place in the same manner as existing (public highway), as is the case for most other businesses. I do not consider that the continuation of this arrangement in respect would be unacceptable.

I conclude that proposal would comply with Policy CS14 of the Leicester Core Strategy (2014) and saved Policies AM01, AM02, AM11 and R05 of the Local Plan (2006), and is acceptable in terms of access, parking and highway safety.

Representations

There are other agencies that would deal with issues relating to drug taking together with anti-social behaviour from users of the existing uses.

Conclusion

The proposal is acceptable in principle as it would not detract from the vitality and viability of Green Lane Road shopping area. The proposed use is far enough away from residential properties so as not to have a substantially negative impact upon their amenity. There would be no unreasonable impact upon residential amenity, the character and appearance of the area, nor in terms of access and parking.

I recommend APPROVAL subject to the following conditions:

CONDITIONS

1. START WITHIN THREE YEARS
2. VENTILATION SYSTEM INSTALLED AND MAINTAINED - APPROVED DETAILS
3. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the City Council as local planning authority. These arrangements shall be maintained thereafter. (In the interests of the amenities of the surrounding area, and in accordance with policies H07 and PS10 of the City of Leicester Local Plan and Core Strategy policy CS3.)

4. Before the use is begun, a litter bin/s shall be provided on the forecourt to the property in accordance with details which shall first have been submitted to and approved by the City Council as local planning authority and shall be retained. (In the interests of general amenity, and in accordance with policy PS10 of the City of Leicester Local Plan. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).
5. The use shall not be carried on outside the hours of 07.30-23.00 daily. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
6. No equipment/machinery shall be installed or operated nor shall any processes be undertaken which are detrimental to the amenity of the area by reason of noise, vibration, smell, fumes and smoke. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
7. There shall be no live or amplified music or voice played which would be detrimental to the amenities of occupiers of nearby properties. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
8. This consent shall relate solely to the plans received by the City Council as local planning authority on 4/7/2019. (For the avoidance of doubt.)

NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material planning considerations, including planning policies and representations that may have been received and subsequently determining to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2019.

Policies relating to this recommendation

- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2014_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2006_AM11 Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.

- 2006_PS11 Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.
- 2006_R05 Proposals for the use of premises within existing shopping centres for food and drink purposes (Use Classes A3, A4 and A5) will be permitted subject to criteria.
- 2014_CS14 The Council will seek to ensure that new development is easily accessible to all future users including by alternative means of travel to the car; and will aim to develop and maintain a Transport Network that will maximise accessibility, manage congestion and air quality, and accommodate the impacts of new development.
- 2006_AM01 Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.
- 2006_AM02 Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.
- 2014_CS11 The Council supports a hierarchy of retail centres in Leicester. The policy sets out measures to protect and enhance retail centres as the most sustainable location for retail development.
- 2006_R03 Retail development outside the Central Shopping Core will be confined to the existing and proposed shopping centres.