

20212643	252 Melton Road	
Proposal:	Retrospective application for change of use from warehouse (Class B8) to retail/storage and distribution (Class E/B8) (Amended plans received 18/03/2022)	
Applicant:	Nazar Foods	
App type:	Change of use	
Status:	Change of use	
Expiry Date:	22 April 2022	
ACB	TEAM: PE	WARD: Belgrave



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Summary

- The application is being reported to the planning committee at the request of Cllr Patel due to potential impact upon ongoing parking and traffic issues in the area.
- Two objections and a petition containing 59 signatures have been received.
- The grounds of objection are the lack of need for an additional retail shop and concerns over parking.
- The issues are principle of the development, the impact of the use on the Belgrave Road District Centre, impacts on residential amenity and highway.

- The application is recommended for approval.

The Site

The application site is a former factory premises located at the corner of Melton Road and Woodbridge Road. The site is located within the area characterised mainly as residential. The lawful use of the site is a warehouse (Class B8).

The site is located within the buffer zone of Sandringham Service Station.

To the west of the property on Woodbridge Road is a car repair unit. To the south on Melton Road are residential properties. On the opposite side of Melton Road to the east are a mixture of residential properties, convenience stores and a car repair unit. To the north on the opposite side of Woodbridge Road is a hand car wash.

Background

The majority of the planning history for the site refers to the previous industrial use of the property. The following applications are of relevance to this application.

In November 2008 planning permission 20081346 was granted for change of use from business use (Class B1) to warehouse with associated assembly area and office areas (Class B8), alterations. This was approved subject to conditions including condition 5 which states: "The premises shall not be used as an independent retail unit and the retail use as shown on the approved plans shall only be ancillary to the main use within Class B8. (The use of the premises as a retail unit would likely to be contrary to policy R06 of the City of Leicester Local Plan)." The permission was implemented.

In February 2018 a report was received that the premises was being used as a retail shop. Investigations confirmed that a retail use was occurring. A decision has been made under delegated powers not to take enforcement action against the use as it was considered such action could not be justified as it could not be proved that the harm to amenity, parking and highways would be significantly more than that which would be associated with the permitted use of the property.

In May 2018 application 20180176 for retrospective consent for the installation of seven internally illuminated signs at the front and side of the building was refused. The signs remain on display.

In November 2018 planning application 20181762 for the change of use of the building from warehouse (Class B8) to wholesale and retail (Class B8/A1) was refused for the following reason:

1. *The proposal, by reason of the increase in vehicular activity at the site and unsatisfactory means of access to the proposed parking, which is sub-standard and insufficient, would have a significant detrimental impact on the safety of users of the highway, particularly pedestrians and would therefore be contrary to paragraph 109 of the National Planning Policy Framework 2018.*

The Proposal

The application is for retrospective permission for the change of use of the building from warehouse (Class B8) to retail (Class E) and storage and distribution (Class B8). Amended details have been received which confirm the site area to be 1182 square metres. The retail use would involve 511 square metres and the storage and distribution use would take up 709 square metres. This equals a figure of 1220 square metres and the agent advises that the proposed uses overlap with each other.

Amended plans have been received which show that all parking to the front and side of the property will be removed and retention of the front extension is no longer included in the application.

Policy Considerations

National Planning Policy Framework (NPPF) 2021

Paragraph 2: applications for planning permission must be determined in accordance with development plans unless material considerations indicate otherwise.

Paragraph 11: A presumption in favour of sustainable development.

Paragraph 87 states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Paragraph 111 states that development should only be 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.

Paragraph 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 130 sets out criteria for assessing planning applications and requires decision makers to ensure that development proposals function well and add to the overall quality of the area, are visually attractive as a result of good architecture, are sympathetic to local character and history, establish or maintain a strong sense of place, optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and create places that are safe, inclusive and accessible and which promote health and well-being.

Development Plan policies

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

Most relevant Core strategy policies are CS03 and CS11 and Local plan policy is PS10

Consultations

Noise and Pollution Control Team – No objections subject to conditions relating to machinery to be installed and hours of use.

Local Highway Authority – Following receipt of amended plans the LHA raise no objections subject to conditions relating to cycle parking.

Representations

Two objections and a petition containing 59 signatures have been received. The grounds of objection are:

- The proposal was refused in 2018 and nothing has changed to allow it to be approved.
- Incorrect information has been received with the application (This has been corrected with the receipt of amended plans and details)
- The customer survey names people who work for the applicant and are not actual customers.
- Enough retail shops in the area without needing any more.
- Steel cages with roller shutters have been installed without permission.
- Business is a wholesaler and should be in an industrial area.

Consideration

Principle of development

Policy CS11 of the Leicester Core Strategy sets out the hierarchy of shopping centres and states that a sequential approach to retail development will be taken. Paragraph 87 of the NPPF 2021 requires a sequential test to be carried out by the applicants in development involving retail uses outside of a retail area.

The site is located within an area defined as being primarily residential. The boundary of the Belgrave Road District Shopping Centre lies 170 metres to the south of the site at the junction with Checketts Road and Marfitt Street and therefore the site is considered to be on the edge of the shopping centre location.

A sequential test has been submitted with the application. This has identified that there are 13 vacant units in the nearest 4 shopping areas to the site. These have been identified by the applicant as being unsuitable for the proposed use due to the lack of floor space available to accommodate the proposed use.

Given the site's edge of centre location and the lack of availability of suitable units for the proposed use I consider that the sequential test has been met on this occasion and that the use is not contrary to paragraph 87 of the NPPF or policy CS11 of the Leicester Core Strategy.

Design

Policy CS03 of the Leicester Core Strategy states that the Council will expect high-quality, well-designed developments that contribute positively to the character and

appearance of the local natural and built environment. Paragraph 126 of the NPPF 2021 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

An extension has been constructed to the front of the property without planning permission. The original proposal included the retention of the structure and roller shutters that had been installed to it. This would have had an adverse impact in terms of its appearance in the street scene and would not be acceptable in terms of relevant adopted national and local policies relating to design. Amended plans have been received which remove the extension in its entirety. There are no other external changes to the property, and I consider that as amended the proposal is not contrary to paragraph 126 of the NPPF 2021 or policy CS03 of the Leicester Core Strategy.

I attach a note to the applicant advising that the extension remains unauthorised and that it should be removed.

Residential amenity (*neighbouring properties*)

Paragraph 130 of the NPPF 2021 states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

There is a residential house immediately adjacent to the site at 250 Melton Road and there are some flats in the upper floors of properties on the opposite side of Melton Road. The proposed use has the potential to cause noise and disturbance to the occupiers of these residential properties if operating at times when residents are more likely to be sleeping. The applicant has proposed operating hours of 0730 to 2200 every day and I consider that these hours would be acceptable and would reduce the potential impact. I therefore propose a condition restricting the operating times to this. Subject to this, I consider that the proposal would not have a significant detrimental impact on residential amenity and would not be contrary to paragraph 130 of the NPPF.

Highways and Parking

Paragraph 111 of the NPPF 2021 states that development should only be 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.

The proposal as submitted included details of an agreement with the operators of a hand car wash on the site of 1 Woodbridge Road where customers could park. However, amended details have been received stating that the car wash has new owners, and the agreement has been cancelled.

The proposal as submitted included details of 10 parking spaces, however these would have resulted in vehicles parking on the footpath and having to reverse out onto Melton Road in close proximity to a traffic light controlled pedestrian crossing. These type of movements would have been likely to cause harm to highway safety.

Amended plans have been received which remove all of the parking spaces from the proposal.

The lawful use of the building would have generated a need for 8 parking spaces whilst the proposed use would require 9. Whilst the amended plans have removed the parking spaces from the proposal I consider that there is still a possibility that customers will attempt to park outside the property. As this involves parking within highway land there are powers available under highway legislation to prevent this parking.

Given the fact that the site is well served by public transport and that the proposed use would only generate the need for 1 additional space I do not consider that the proposals would lead to an unacceptable impact on highway safety to justify refusal for this reason especially when compared with potential highway impacts associated with the lawful use as warehousing with ancillary retail.

Informal monitoring of the operation of the use since the previous refusal has indicated highway impacts largely relate to management of parking and servicing activity on Woodbridge Road. Much of this activity appears to be associated with wider retail and commercial activity nearby as opposed to solely being generated by the site subject of the application. Planning conditions cannot extend to control activity on the highway, but the Local Highway Authority are considering amended parking restrictions on the section of Woodbridge Road between the junctions of Melton Road and Payne Street. Draft proposals envisage the introduction of two dedicated loading bays on Woodbridge Road, one on the south side adjacent the application site and a smaller one on the northern side opposite the garage. In addition, the council propose to reinforce the existing double yellow line no waiting restrictions with a new no-loading restriction at the Woodbridge Road junctions of Payne Street and Melton Road, as well as at the junction of Payne Street with Checketts Road. This would allow enforcement officers to issue penalty charge notices immediately without having to wait and observe if loading is taking place. To prevent dangerous parking on footways at the Woodbridge Road junctions with Melton Road and Payne Street, a number of bollards are also proposed to be installed. These measures have the potential to improve control of local traffic conditions, but weight afforded to their consideration in respect of this application needs to be limited by the fact they are not yet committed.

Whilst the 2018 planning application was refused due to impacts of highway safety the details of the floor space shown on the revised application has significantly reduced the amount of retail space provided and the removal of the parking spaces from the amended plans means that the impact on highway safety would no longer be severe and would not justify refusal of the application.

If the retail use were to expand further this may result in a greater impact on highway safety and I therefore recommend a condition to limit the retail use to the 511 square metres shown on the amended layout plan.

Amended plans have also been received that show the provision of a cycle parking area however this is partially within highway land and would not be acceptable. There would however be sufficient space elsewhere within the application site to provide

secure and covered cycle parking and I recommend a condition to require details of cycle parking to be provided

Drainage

The service yard for the site is in an area with a medium risk of surface water flooding. Given that this would remain in use as a service yard I do not consider that the proposal would result in an increase in the risk of flooding in the area. The proposal is therefore in accordance with policy CS02 of the Leicester Core Strategy.

Other matters.

Objections have also been received stating that deliveries to the site are blocking access to Woodbridge Road. Officers have visited the site on a number of occasions and whilst delivery vehicles have been seen at the site these are not only related to the application site but also to the units at 3-7 Woodbridge Road which also has limited space available for deliveries.

One of the objections points to a number of discrepancies in the application form and the original plans. These have been resolved with the submission of amended details and plans.

Conclusion

In conclusion I consider that the proposal is essentially a reversal of the main (warehousing) and ancillary (retail) uses from the authorised use of the site. Having successfully completed the sequential test I consider that it is acceptable for the use to operate outside of the defined retail area. I further consider that the previous reason for refusal could no longer be sustained on appeal. With the submission of amended plans that remove the roller shutters and display areas I consider that the proposal is not contrary to planning policy.

I recommend that this application is APPROVED subject to conditions.

CONDITIONS

1. Within 6 months of the date of this consent, secure and covered cycle parking shall be provided and retained thereafter, in accordance with written details submitted and approved by City Council as local planning authority. (In the interests of the satisfactory development of the site and in accordance with policy AM02 of the City of Leicester Local Plan).
2. The use shall not be carried on outside the hours of 0730 to 2200 daily. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
3. The retail use shall be limited to 511 square metres as shown on the approved plan MS-21-139-PL-PR-01 rev C received 18 March 2022. (In the interests of highway safety and in accordance with paragraph 111 of the National Planning Policy Framework 2021)

4. Development shall be carried out in accordance with the following approved plans:

MS-21-139-PL-LP-02 rev C received 5 April 2022, MS-21-139-PL-PR-01 rev C and MS-21-139-PL-PR-02 rev C received 18 March 2022

(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 considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process. The decision 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 2021 is considered to be a positive outcome of these discussions.
2. The roller shutters, display units, extension and signage facing Melton Road remain unauthorised. If these are not removed within 3 months of the date of this consent formal enforcement action may be taken.

Policies relating to this recommendation

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| 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. |
| 2006_AM11 | Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01. |
| 2006_PS10 | Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents. |
| 2014_CS02 | Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City. |
| 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'. |
| 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. |