

# COMMITTEE REPORT

<b>20213007</b>	<b>80 Queens Road</b>	
Proposal:	Retrospective application for change of use from Betting Shop (Sui Generis) to Restaurant (Class E) and for installation of ventilation flue	
Applicant:	Mr Vimal Kumar Rana	
App type:	Operational development - full application	
Status:	Change of use	
Expiry Date:	24 May 2022	
BL	TEAM: PD	WARD: Castle



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## Summary

- The application is at committee as more than five objections have been received from Leicester addresses
- 15 objections have been received.
- The main issues are the principle of the development, the proposed hours of use and other factors that may have an impact on residential amenity.
- Recommendation is for approval.

## The Site

The application relates to 80 Queens Road which is within the Queens Road Local Centre. It is the northern most of a short row of six purpose built commercial units set

back further from the highway than many of the other commercial units along the northern part of Queens Road.

## Background

Previous planning history dates from 1969 to 2004, and relates to changes of use, advertisement consent and shopfront alterations. The most recent change of use is listed below:

20031360 - Conditional approval for the change of use from retail (Class A1) to betting shop (Class A2); new shop front; three air conditioning units (amended)

Condition no.3 of this approval stated that *“The use shall not be carried on outside the hours of 0900 – 2200 daily. (In the interests of the amenities of nearby occupiers, and in accordance with policy(ies) S10 of the City of Leicester Local Plan.)”*

Recent changes to the Use Classes Order mean that betting shops now fall under sui generis and not Use Class A2 as was the case in 2003.

## The Proposal

The application is a retrospective application for the change of use of the ground and first floors from a betting shop (Sui generis) to restaurant (Class E) and for the installation of a ventilation flue at the rear.

The application form states that the intended opening hours are: 10:00 am to 0:00 am Mondays to Fridays, 10:00 am to 01:00 am Saturdays and 10:00 am to 00:00 am Sundays and Bank Holidays. However, this is not the opening hours as currently advertised on google and on site. For reference, the advertised opening hours are: 02:00 pm to 10:00 pm Sundays, 11:00 am to 10:00 pm Mondays to Thursdays and 11:00 am to 11:00 pm.

The ventilation flue projects upwards from the first floor and through the ceiling of the property to the rear. Its height is approximately 1m above the ridge of the building.

The ground floor accommodates the main restaurant seating and counter area to the front, with a kitchen, toilet, and utility area to the rear. The first floor is ancillary to this ground floor use and its internal structure has not changed, though alterations have been made to the existing kitchen to install the ventilation flue and a cold room.

With the exception of painting and new advertisements, no other substantial shopfront alterations have been made.

## Policy Considerations

### National Planning Policy Framework (NPPF) 2021

Paragraph 2 (Application determined in accordance with development plan and material considerations)

Paragraph 11 (Presumption in favour of Sustainable Development)

Paragraphs 39 and 40 (Pre-applications)

Paragraphs 43 (Sufficient information for good decision making)

Paragraph 56 (Six tests for planning conditions)

Paragraphs 86 to 91 (Ensuring the Vitality of Town Centres)

Paragraphs 185 to 188 (Noise Pollution)

### Development Plan policies

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

## Consultations

Noise and Pollution Control – No objections to the change of use and consider that the proposed ventilation system is suitable for this type of food outlet.

## Representations

Objections have been received from fifteen different persons including one from Cllr Danny Myers. All objections raised concerns over the hours of use proposed in the application for and in particular the impact that this would have on the residential amenity of the area. In addition, other concerns included:

- noise from ventilation flue and possible detrimental impact on residential amenity
- ambiguity concerning whether the use would be a restaurant or a hot food takeaway
- identified concerns relating to the use as a hot food takeaway including increased traffic, littering, antisocial behaviour (one representation recommends that the use be restricted by condition to a restaurant)
- the loss of a retail unit and its impact on the commercial vitality and viability of the Queens Road Local Centre
- concerns over potential noise from the shared service yard (and conditions suggested ensuring that all activity is to the front facing Queens Road including customer access, point of off-sales, use by private vehicles, use by the postal service, deliveries and a suggested ash tray to the front of the premises to avoid littering)
- conditions suggested controlling the level of music and ensuring that windows are shut except for access escape
- conditions suggested restricting the number of visitors to the premises in line with the premises license
- conditions suggested that all rubbish be stored to the rear
- concerns regarding level access to the toilet facilities
- concerns that representations related to the application are not possible by email.

## Considerations

### Principle of Development

The proposal would add a new restaurant in a defined local centre. The change of use would not alter the footprint of the unit. Queens Road retains a healthy retail function and I consider that, overall, there would not be likely to be such harm to the retail viability of the local centre to be sufficient to refuse the application on the principle of development.

### Residential Amenity

Intended opening hours are 10:00 am to 0:00 am Mondays to Fridays, 10:00 am to 01:00 am Saturdays and 10:00 am to 01:00 am Sundays and bank holidays. However, and as noted above, this is not the advertised hours of opening.

I have concerns that the hours applied for within the application form are later than for other licensed premises in the area and could potentially cause nuisance to local residents if activity extends into to the later hours of the night. As such I consider it

appropriate to attach a condition restricting opening hours of the restaurant to between 10:00 am and 11:00 pm.

The ventilation flue projects upwards and outwards from the first floor, and project 1m above the ridge of the property to the rear and due to its positioning is not easily visible from the street scene. The termination point of the proposed flue is acceptable as it would result in sufficient dispersal and diffusion of odours. A condition ensuring that no noise or vibration is perceptible from the ventilation flue would ensure that the flue does not harm residential amenity in this respect.

For a commercial use in a designated local centre I do not consider that conditions ensuring that all activity is to the front (facing Queens Road), controlling the level of music and ensuring that windows are shut except for access escape, restricting the number of visitors to the premises in line with the premises license or requiring that all rubbish be stored to the rear would be necessary or appropriate.

I consider that, subject to conditions restricting the hours of use, that the change of use and installation of the ventilation flue both comply with saved Core Strategy policy CS03 and saved City of Leicester Local Plan policies PS10 and PS11 and are acceptable in terms of visual amenity and noise pollution and any other potential nuisance to neighbouring residential properties.

#### Highways/Parking

The restaurant is small and is unlikely to have many more staff than the previous use. There is access outside to the front, side, and rear of the site to be used for potential customers or delivery drivers. I consider it unlikely that there would be sufficient reason to refuse the application on the grounds of highway safety.

I conclude that there is no overwhelming conflict with NPPF paragraph 112, and saved City of Leicester Local plan policies AM11 and R05.

#### Other matters

Alterations to the internal toilet facilities have not been applied for.

The local planning authority takes into consideration all written representations whether they are received by email or via the online representation facility.

#### Conclusion

The proposal is acceptable in principle and will provide local community facilities, which is a priority land use for the potential development area. There are no concerns regarding waste storage and collection (subject to condition) and drainage. Subject to the recommended conditions, I consider that the parking/highways and residential amenity concerns would not be significant as to outweigh the community benefits. On balance, I recommend that this application is APPROVED subject to conditions:

#### CONDITIONS

1. The development shall be begun within three years from the date of this permission. (To comply with Section 91 of the Town & Country Planning Act 1990.)
2. No noise or vibration from the operation of the ventilation system detrimental to amenity shall be perceptible in any adjoining property. (In the interests of the amenities of nearby occupiers, and in accordance with policies PS10 and PS11 of the City of Leicester Local Plan.)

3. The use shall not be carried on outside the hours of 10:00 to 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.)
4. Development shall be carried out in accordance with the following approved plans:  
Plans – 2021/12/340/B Pages 1-8 – Received on 17/02/2022  
(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 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 2021.

#### **Policies relating to this recommendation**

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_AM11	Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
2006_BE10	In developments involving a new shopfront, the design should be an integral part of the whole building and should be in proportion to the lines of the facade of which it forms a part.
2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
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_R03	Retail development outside the Central Shopping Core will be confined to the existing and proposed shopping centres.
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_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_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.



