

PARISH Barlborough

APPLICATION Change of use of retail shop to fast food takeaway
LOCATION 9 High Street Barlborough Chesterfield S43 4EY
APPLICANT Ashlea Trading Co Ltd 18 Bluebell Close Barlborough Derbyshire S43
4WT United Kingdom
APPLICATION NO. 15/00498/FUL **FILE NO.** PP-04525136
CASE OFFICER Mrs Karen Wake (Mon, Tues, Wed)
DATE RECEIVED 29th September 2015

SITE

Two storey semi detached building which is currently vacant but was previously used as a martial arts studio and prior to that a fitness suite. Attached building to the west of the site is a dwelling and there is also a detached dwelling to the rear of the site. To the east of the site is the memorial garden. 1.8m high brick wall with gates along the west side boundary. 1.8m brick wall along rear boundary. Building itself runs along the east side boundary and fronts the pavement. Building is constructed in brick with a slate roof.

PROPOSAL

The application is for the change of use of the ground floor to a hot food take-away. The proposal includes the installation of an extraction system which runs within the existing building, through the existing chimney and protrudes slightly above the top of the existing chimney. The proposal also includes sound insulation measures to the wall with the attached dwelling.

AMENDMENTS

None

HISTORY (if relevant)

13/00411/FUL: Change of use of retail shop to fast food takeaway: Refused 20/02/2014 by committee for the following reason: *There is likely to be an increased demand for on street parking close to the premises in an area which already suffers from a high incidence of on-street parking. Whilst there are traffic control measures in place these cannot be policed at all times. Any increase in the incidence of on-street parking close to this junction on a main route to school and where traffic currently experiences some difficulty negotiating the junction layout would be likely to exacerbate highway dangers contrary to the requirements of policy GEN1 (Minimum Requirements for Development) of the adopted Bolsover District Local Plan.*

07/00396/FUL: Change of Use to Fitness Suite: Approved 26/10/2007

02/00615/FUL: Change of Use of Ground Floor to Business Use: Approved 15/05/2003

00/00270/FUL: Change of Use of Ground Floor from Newsagents to Take-away and First Floor from Storage to Dwelling, Construction of Rear Access Stairs to Dwelling and New Rear Entrances on Both Floors and New First Floor Windows: Refused 10/11/2000 for the following

reason: *If approved the proposal would be detrimental to the residential amenity of the occupiers of closely adjoining dwellings by way of additional noise and disturbance late into the evening, loss of privacy, the generation of cooking odours and fumes, on-street parking, and litter. These materially harmful impacts would not be outweighed by the social or economic benefits to the community offered by the development and the proposal is contrary to policies GEN2 and SAC9 of the Bolsover District Local Plan (adopted February 2000).*

HISTORY OF NEARBY SITE 11-13 High Street

An application for a change of use to a pharmacy (10/00228/FUL) was refused by Planning Committee for three reasons one of which was as follows:

1. There is likely to be an increased demand for on street parking close to the premises for people collecting prescriptions that are less mobile and cannot walk from the local surgery. Whilst there are traffic control measures in place these cannot be policed at all times, and there may be a number of potential clients who would be exempt from these controls as well. Any increase in the incidence of on-street parking close to this junction on a main route to school and where traffic currently experiences some difficulty negotiating the junction layout would be likely to exacerbate highway dangers contrary to the requirements of policy GEN1 Minimum Requirements for Development and GEN 2 Impact of Development on the Environment.

The application was then allowed on appeal. The inspector concluded that:

Although it is likely that most pharmacy customers would visit on foot, some would arrive by car and there would be deliveries by commercial vehicles. Demand for on-street parking would therefore increase as a result of the development, but I note that unrestricted parking is available on High Street and New Road in relatively close proximity to the premises, so that most car borne visitors could park clear of the junction and its restrictions. However I acknowledge that some customers may disregard the restrictions, including those with limited mobility. As a consequence, traffic using the junction may be impeded, but it is unlikely that these circumstances would arise regularly and to the extent that highway and pedestrian safety, including the safety of schoolchildren, would be materially compromised. Furthermore, it would be for the police or local authority to take action against unauthorised parking if it were deemed necessary. Customers who are exempt from parking controls may park close to the junction, but such visits would be relatively infrequent and do not justify dismissal of the appeal on these grounds.

CONSULTATIONS

DCC Highways: No objections: 8/10/2015

Parish Council: Object to the proposal for the following reasons:

1. The site is in the conservation area. The location of a takeaway would be inappropriate and insensitive to the surrounding area.
2. There are parking restrictions, yellow lines and a bus stop outside the site
3. The noise level and fumes which would result from a takeaway would have an impact on nearby residents
4. There is an abundance of fast food outlets in the immediate area
5. The take away hours of opening are extremely unsociable
6. The location of the takeaway, next door to an enclosed public garden would be supporting an increase in anti-social behaviour.

Conservation Officer: Does not object to the proposal: 26/10/2015

PUBLICITY

Site notice, press notice and 19 neighbours notified. Five letters of objection received which raise the following issues:

1. The proposal will result in litter in the village
2. The proposal will cause problems with traffic and parking. There is already a problem with parking on High Street and the junction of High Street and New Street is hazardous particularly at school times and for buses
3. There is limited parking in the vicinity as there are double yellow lines on either side of High Street and New Road and there is no car park nearby so the proposal would encourage people to park illegally
4. The proposal will be unsightly in the heart of a lovely quiet village
5. A takeaway is not a suitable business to be attached to a residential property.
6. The proposal will result in a problem with odours, particularly to the attached property
7. The proposal will result in a problem of noise, particularly in the evening
8. There are already a number of pubs and fast food outlets in the area. Many Councils are looking at the number of fast food outlets in their areas with a view to reducing the applications on health grounds.
9. There is a community garden dedicated to the memory of a past resident adjacent to the site. This is a quiet contemplative space for residents and visitors to use. There is also a memorial garden and mosaic archway opposite the site which is dedicated to the fallen of the 1st and 2nd World Wars. The gardens are maintained by the Parish Council with help from community groups. A fast food take away would attract unwanted litter and late night activity in this tranquil and historic part of the village.

POLICY

Bolsover District Local Plan (BDLP)

GEN 1 (Minimum Requirements for Development)

GEN 2 (Impact of Development on the Environment)

CON 1 (Development in Conservation Areas)

SAC 9 (Hot Food Shops, Cafes, Restaurants, Public Houses and Social Clubs)

National Planning Policy Framework

No specific policies relating to hot food take-aways. Sustainable development should be approved unless there are overriding material impacts. Should support the vitality and viability of existing centres. Support for the rural economy. Decisions should be made on a balance of economic, social and environmental issues.

Other (specify)

Historic Environment Supplementary Planning Document

ASSESSMENT

The application is a re-submission of a previously refused application (13/00411/FUL). The proposal is unchanged from the previous application. The previous application was recommended for approval by planning officers but was refused by committee on highway safety grounds only.

The main issues for consideration are impact on the character and appearance of the

conservation area, the impact on residential amenity and the impact on highway safety.

Conservation:

The building occupies a prominent position on the corner of High Street/New Road in the heart of the conservation area. The main consideration from a heritage point of view is the impact of the proposal on the character and appearance of the conservation area.

There are a mix of uses in the vicinity of the site which include the parish council offices/ village hall and primary school opposite the site, two existing retail outlets (pharmacy and shop/post office) and three public houses with some residential dwellings in between. The building has been used for retail in the past and retains a traditional style shopfront. The last use of the building was as a fitness centre. The front elevation is attractive with an original shop front and sliding sash windows to the first floor. The proposed scheme does not involve any physical alterations to the building itself apart from the insertion of a flue within the existing chimney. On this basis it is considered difficult to argue that the proposed change of use would have an adverse impact on the character and appearance of this part of the conservation area and the proposal is therefore considered to meet the requirements of Policy CON 1 of the Bolsover District Local Plan.

Health Issues:

The Health Committee Report for Health Inequalities highlighted the need to address the rising numbers of fast food takeaways on the high streets of towns and cities. In their response to this report the Government stated clearly that local planning authorities are able to influence these outlets through policies in their development plans provided they are supported by a strong evidence base and the Use classes Order.

At present, Adopted Local Plan Policy SAC 9 'Hot Food shops, cafes, restaurants, public houses and social clubs' will allow A5 uses subject to no harmful environmental impacts such as litter, odours, and storage of waste. This Policy does not cover issues such as community safety, and the need to reduce levels of obesity, particularly for children and young adults. Whilst this is a saved policy in the Local Plan and therefore still carries some weight the lack of reference to health issues means that it is not a material issue under this policy.

In order to further control A5 uses on the grounds of their contribution to obesity and other harmful environmental impacts, a new planning policy would need to be included in the new Local Plan and possibly supplemented by a new Supplementary Planning Document (SPD). This would then replace existing policy SAC 9. However, the policy would have to be subject to examination and would therefore have to be soundly based on evidence in order to carry any weight in terms of implementation, particularly if it came to a planning appeal against refusal of permission for a takeaway. At present no such policy exists in this District.

The National Planning Policy Framework itself does not have any policies regarding the control of hot food takeaways but does support the sustainable reuse of vacant buildings such as this. Whilst an alternative use may be preferred, without a specific policy to control the proliferation of hot food takeaways there is no planning reason for refusal on this basis.

Amenity:

The applicant has proposed opening hours to 5pm – 11pm 7 days a week and has submitted sufficient information in relation to noise attenuation measures between the take-away and the attached dwelling and the extraction system to control fumes and odours, to satisfy the EHO (this is a materially different position from the previous refusal in 2000- see history above). This means, that subject to conditions to control these issues, the proposal is not considered to result in significant noise or disturbance or harmful impact on the residents of the attached and adjacent dwellings.

As regards general disturbance as this is a village centre and already has a number of public houses nearby there will be general activity in the area during the opening hours proposed. There is no evidence that this use will make a material change to the general activity in the area such that users of the adjacent memorial garden and village green and nearby houses will be subject to unacceptable levels of additional disturbance. The proposal is therefore considered to meet the requirements of the policies of the Bolsover District Local Plan.

Highways:

The property has no on-site parking and is likely to generate vehicle movements to and from the site. However, the site could already be used for a number of retail/commercial uses without the need for planning permission and the vehicle numbers generated by the proposed use are not considered to be materially greater than could be generated by such retail/commercial uses. In addition it is anticipated that in such a central village location a number of customers will potentially walk to the site.

There is existing congestion around the site and problems with on street parking. This is, however, at its worst during school drop off/pick up times. The proposed business hours are outside of these times. On this basis the traffic congestion and parking issues within the village are not considered to be materially worsened by the proposal and there are no objections to the proposal by the Highway Authority. The proposal is therefore not considered to be detrimental to highway safety and the proposal is considered to meet the requirements of Policy GEN 1 of the Bolsover District Local Plan.

In addition consideration has to be given to the finding of the inspector in the appeal against the application for the change of use to a pharmacy on the opposite side of the New Street Junction which concluded there was no detriment to highway safety.

Other Matters:

Most of the issues raised by local residents are covered in the above assessment. The issue of loss of value to adjacent properties is not a planning issue which can be taken into account. The issues of potential for litter, food waste/ vermin and anti- social behaviour are issues which are generally covered by other legislation. Dropping litter within the highway is an offence covered by other legislation.

The proposed take-away is close to existing public houses which could also potentially result in anti-social behaviour but it is accepted that such uses serve the local community and any anti-social behaviour issues are controlled by the police.

Conclusion

It is appreciated that the concerns expressed by local residents are strongly held views and these along with the previous decision of the Committee have been carefully considered as part of the assessment . However, the proposal has to be judged first on its compliance with policy and if it meets those requirements the presumption is in favour, unless overriding material impacts can be shown to outweigh them. In this case it is our judgement there are no planning reasons by which a refusal is justified.

Other Matters

Listed Building: N/A

Conservation Area: Covered in the above assessment

Crime and Disorder: No issues relating to this proposal

Equalities: N/A

Access for Disabled: N/A

Trees (Preservation and Planting): N/A

SSSI Impacts: N/A

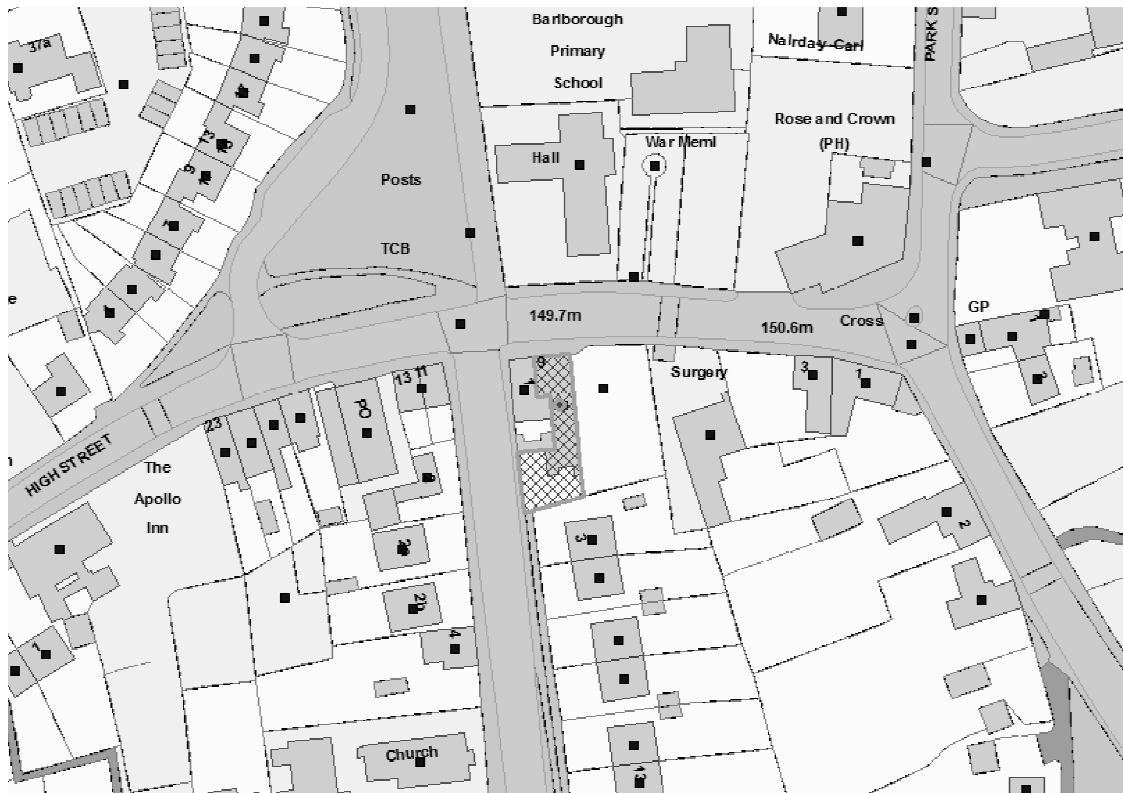
Biodiversity: N/A

Human Rights: No issues relating to this proposal

RECOMMENDATION: Approve subject to the following conditions which are given in précis form to be formulated in full by the Assistant Director of Planning.

1. Start within 3 years
2. Installation and maintenance of the extraction system
3. Installation and maintenance of noise attenuation measures to the wall between the proposal and the attached dwelling
4. Opening hours to customers only between 5pm-11pm 7 days a week

Note to be added advising the permission does not cover signage and any new signage may need separate advertisement consent. Consult Conservation Officer.



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