

**4/03693/15/FUL - CHANGE OF USE FROM SHOP TO FAST FOOD RESTAURANT.
38 LONG CHAULDEN, HEMEL HEMPSTEAD, HP1 2HX.
APPLICANT: MR A KHAN.**

[Case Officer - Elspeth Palmer]

Summary

The application is recommended for approval. The principle of an A3/A5 use is generally acceptable in this broad location. The proposal accords with CS4: Towns and Large Villages and Saved Policy 43 of the DBLP.

Site Description

The application site is located at 38 Long Chaulden, a designated and Council managed local centre (Chaulden) within the principle town of Hemel Hempstead.

The local centre is on the northern side of Long Chaulden, Hemel Hempstead and is set back from the road with car parking to the front of the shops. There are car parking spaces in front of the Local Centre. There is a rear access which loops around the back of this row of shops.

Proposal

The application is seeking the approval for the change of use from a shop (A1) to a fast food restaurant/takeaway (A3/A5). The application site is currently vacant and has remained unoccupied since December 2014. The previous use of the shop unit was a newsagent.

The proposed use will provide food such as:

Pizza, kebabs, grilled chicken, gourmet burgers, fried chicken, French fries, chicken nuggets/wings, naan bread, milkshakes, Mr Whippy ice cream, freshly baked cakes and drinks.

The proposed hours of operation are 11am to 11pm daily.

There are currently 20 parking spaces in the parade plus parking on the side of the building for approx. 6-7 cars but this is restricted during school times. It is proposed that customers visiting the A3/A5 use will use this car park if necessary.

Referral to Committee

The application is referred to the Development Control Committee due to the level of public interest ie. the submission of two petitions with a total of 156 signatures and due to the fact that the site is owned by Dacorum Borough Council.

Planning History

None of relevance.

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)

Adopted Core Strategy

NP1 - Supporting Development

CS1 - Distribution of Development
CS4 - The Towns and Large Villages
CS8 - Sustainable Transport
CS9 - Management of Roads
CS10 - Quality of Settlement Design
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS13 - Quality of Public Realm
CS14 - Economic Development
CS16 - Shops and Commerce

Saved Policies of the Dacorum Borough Local Plan

Policies 10, 12, 13, 43
Appendix 5,

Supplementary Planning Guidance / Documents

Water Conservation & Sustainable Drainage (June 2005)
Energy Efficiency & Conservation (June 2006)
Accessibility Zones for the Application of car Parking Standards (July 2002)

Advice Notes and Appraisals

Sustainable Development Advice Note (March 2011)

Summary of Representations

Strategic Planning

The key consideration is whether to support a further loss of a shop to a fast food restaurant/takeaway given the limited number of retail units in the Chaulden Local Centre.

The principle of an A3/A5 use is generally acceptable in this broad location (Policy CS4 and saved Policy 43).

Given the limited number of shop units in this small centre, Policy 43: Shopping Areas in Local Centres states that in shopping areas with less than 8 shops, permission will be refused for a change of use involving the loss of a shop use at street level. The aim of the policy is to protect the shopping role and character of the centre.

However, we feel there is scope to be flexible over the application of the policy. The centre currently offers, for its size, a reasonable range of goods and services for the local needs of residents, including a chemist, launderette, hair dresser, beauty treatment, a Chinese takeaway, a Co-op store and an off-licence. Indeed, out of the 9 units at Long Chaulden, 6 are in shop use and the other 3 units are in other uses. This is considered to be a good presence of shops given recent difficult market conditions for small retailers and continuing changes in retailing patterns.

We understand from the Valuation and Estates Team that they have found it difficult to secure an occupier. It has been marketed since February 2015, entering two rounds of marketing in an effort to get a suitable tenant for the unit. Therefore, whilst a shop would be a more preferable use of the unit under policy for the local centre, we feel there would be wider benefits for the centre in now securing its occupancy due to the amount of time the unit has been vacant for. Government is generally keen to promote occupancy and flexibility in use of vacant retail premises.

As with this type of use, it may be appropriate to control activities (Policy CS12c) in order to safeguard local amenities.

Conclusions

In summary, the proposal is considered to be appropriate in principle within local centres within Dacorum. Ultimately, the change of use will bring use back into the property that has been vacant for over a year. The centre will continue to be provided with a small but broad range of local shops and services.

Hertfordshire Highways

Original Information:

The Hertfordshire County Council as Highway Authority recommends that permission be refused for the following reasons:

Hertfordshire County Council (HCC) recommends refusal of the proposed development as not enough information has been provided to support the planning application, from a highways perspective.

The reasons for refusal are as follows;

- No details on trip generation has been provided;
- Information on servicing arrangements need to be confirmed;
- Evidence needs to be provided to demonstrate that the existing car park can accommodate the net level of trips associated with the proposal and that vehicles will not be displaced onto the highway network;
- Confirmation that a delivery element is not included as part of the proposals.

It is recommended that the information above is included in a Design and Access Statement.

Description of the Proposal

The application is for a change of use from a local newsagent to a fast food restaurant, with an internal seating for 24 covers. Limited information has been provided as part of the application submission.

Site Description

The development site is located within a parade of local shops, which is served by a car park from Long Chaulden. Long Chaulden is a local access road with a speed limit of 30mph. The site is surrounded by a mix of commercial and residential land uses.

Analysis

As part of any planning application that has an impact on the highway, a Design and Access Statement (DAS) is required. However, a DAS has not been provided as part of the application submission.

Policy Review

The applicant has provided no evidence to show the following policy documents have been reviewed:

- National Planning Policy Framework (2012)
- Dacorum Borough Council Core Strategy (2013)
- Hertfordshire County Council (HCC) Local Transport Plan 3-2011-2031
- Dacorum Borough Local Plan 1991- 2011 (Sept 2013)

Trip Generation

No information on trip generation has been provided as part of the application, and an A3/A5

use generally has a higher level of associated trips than a newsagents. Information on the net impact of trips generated by the proposed development needs to be provided in order to assess the impact of the development.

Transport Assessment

Due to the size, nature and location of the proposed development, a Transport Assessment (TA), or a Transport Statement (TS), is not required as part of the planning application. However, a Design and Access Statement is required to support the application and this has not been provided with the application.

Impact on Highway Network

Highway Safety

A summary of collision data in the vicinity of the development site has not been provided to support the application. However, a review of 5 years of HCC accident data shows 3 slight collisions within the vicinity of the site. Information on the trip generation needs to be provided before HCC can confirm the proposals will not have an impact on highway safety.

Highway Layout

Site Access

The applicant is proposing to use the existing car park in order to provide vehicular access to the site. HCC has concerns regarding the car park and this is set out within the parking section.

Pedestrian Access

The pedestrian access to the site will be provided in accordance with the existing situation and this would be acceptable.

Refuse and Service Delivery

The applicant has not provided details about the refuse and servicing arrangements. It is assumed that this arrangement will be undertaken in accordance with the existing situation but this needs to be confirmed, along with confirmation that there will be no increase in the number of service and delivery vehicles.

Road Safety Audit

A Stage 1 Road Safety Audit is not required for this level of development.

Parking

Whilst the level of parking proposed is for the Local Planning Authority to determine. HCC raises concerns as to whether there is sufficient capacity to accommodate the level of trips associated with fast food use. As these trips are likely to be short trips to pick up food if the car park is full, vehicles may be tempted to park on the highway in unsafe and unsuitable locations. HCC request that trip generation information is provided and that evidence is submitted in order to demonstrate that the additional vehicles can be accommodated in the existing car park.

It is also not clear from the proposals whether the proposals will have a delivery element. If this is proposed information as to where delivery vehicles will be kept/parked is also required.

Cycle Parking Provisions

The applicant has not stated the cycle parking provisions. The LPA will determine the level of cycle parking required.

Accessibility

Public Transport

The site is service by bus stops on both sides of Long Chaulden, the closest bus stop to the site is the stop opposite School Row, which is served by bus service 3 and ML1.

Hemel Hempstead Train Station is located approximately 1.2km from the proposed development site. This is considered a walkable distance. The train station provides connections to the local area but also Central London.

Walking and Cycling

There are footways provided on both sides of Long Chaulden that provide access to the surrounding area. There are no formal cycling facilities on Long Chaulden; however, the carriageway is considered suitable for cyclists.

The site is considered accessible by sustainable modes of transport.

Travel Plan

Due to the scale and nature of the proposed development, a Travel Plan will not be required.

Planning Obligations / Community Infrastructure Levy (CIL)

Due to the size, nature and location of the proposed development, it is not expected that the development will have an impact on the highways safety and operation. Therefore, no planning obligations will be sought by HCC.

Summary

The application has been reviewed and further information is required to be provided in order for the application to be fully assessed.

Comment from Highways on additional information provided by the applicant:

I can confirm that based on the additional information HCC does not wish to raise an objection to the proposals.

The information provided by the applicant confirms the following:

- The pedestrian access to the premises will be provided in accordance with the existing situation and HCC considers this to be acceptable.
- Information regarding the car park has been provided and it seems reasonable that the busiest operational time is during the school peaks. The applicant confirms that their busiest times would be from 18:00 onwards due to the nature of the business, when there are around 10 or more parking spaces available. HCC are satisfied that the peak times for proposed fast food development would not co-inside with the peak hours and that vehicles should be able to be accommodated and that any impact as a result of the development would not result in a severe impact which is the test considered within the NPPF.
- It is acknowledged that a home delivery service is also provided and that this element of the development will be served from the rear of the property and the vehicle will also be stored in this location. It is also noted that a second vehicle is likely to be used at the weekends but will be kept off site during the week. HCC considers this arrangement to be acceptable and will not have a detrimental impact on safety and operation of the highway network.
- Collision information has been provided and this confirms that only 3 slight collisions have occurred. It is not anticipated that the trips associated with the development proposals would create a safety issue over and above the existing situation.

Police Licensing Officer

No comments to make.

Environmental Health

The Environmental Health Officer has no objections to the proposal but would like the following condition added to any approval:

Prior to the commencement of the potentially odorous activity a scheme for the ventilation of the premises, including the extraction and filtration of cooking fumes. shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the commencement of the use being permitted.

The information will contain in addition to efflux information and capability of the system, details of potential noise from the system

Reason:

To safeguard the amenities of those premises near the application site and the appearance of the building as a whole. In accordance with Policies and procedures of Dacorum Borough Council

Response to Neighbour Notification / Site Notice / Newspaper Advertisement

Two petitions have been submitted with a total of 156 signatures. The petition is against the planning application for the change of use from A1 to A3/A5.

The petitioners feel this planning application should be refused for the following reasons:

- it would result in further loss of trade at Stoneycroft shops and the shops in Long Chaulden already providing hot food;
- there are sufficient A3/A5 shops in Stoneycroft and Chaulden without another food Takeaway opening and trading as Café/Restaurant/Takeaway; and
- There are not enough customer car parking spaces to cope daily in the car park of Long Chaulden shopping parade what with a Children's school just behind the shops in Long Chaulden plus a Chaulden Community Centre and The Tudor Rose public house all without providing parking spaces.

A Resident above the Chaulden Shops – Objects

- Already inadequate parking for residents and users of the shops and nearby facilities;
- We already put up with smells from the fish and chip shop and noise from people collecting their food late at night; and
- We already put up with the Hermes outhouse delivery lorries and vans and deliveries for the Co-op. If the proposed restaurant were to be approved there will be more deliveries to customers/people collecting their food not to mention additional delivery vehicles supplying the food.

Ambers Beauty Studio – Objects

- Not enough parking currently for residents and users of the shops and other facilities;
- The proposal may entice people to loiter outside the area of the premises which could cause disruption and be off putting to my clients;
- Additional noise would be harmful; and
- Smells and rubbish would also be a concern.

Local Resident - Objects

- There is inadequate parking for the 9 shops, public house, community centre, 11 maisonettes and school entrance which all compete for the existing minimal parking

- spaces. An increase in cars would cause chaos and;
- The increase in cars and the chaos caused would be detrimental to business.

Considerations

The main issues of relevance to the consideration of this application relate to the policy and principle justification for the proposed change of use, the impact on the appearance of the original building and street scene, the impact on neighbouring properties, and the impact on highway safety and car parking.

Policy and Principle

NPPF guidance supports flexibility in shop use and due to recent changes to Permitted Development Rights the site could be changed from A1 to A3 (Restaurant or Café) as part of the Prior Approval Process.

The principle of an A3/A5 use is generally acceptable in this broad location (Policy CS4 and saved Policy 43).

The centre currently offers, for its size, a reasonable range of goods and services for the local needs of residents, including a chemist, launderette, hair dresser, beauty treatment, a Chinese takeaway, a Co-op store and an off-licence. Indeed, out of the 9 units at Long Chaulden, 6 are in shop use and the other 3 units are in other uses. This is considered to be a good presence of shops given recent difficult market conditions for small retailers and continuing changes in retailing patterns.

Impact on appearance of original building and street scene

There are no external changes proposed to the building, however the proposed use is likely to require the installation of an external flue. This is likely to be located to the rear of the building and therefore would not be a dominating feature on the principal elevation or detract from the appearance of the street scene. As such, the proposal is in accordance with Policy CS12 of the Core Strategy.

Impact on neighbouring properties

The nearest sensitive uses to the site include residential uses; it appears there is a flat above therefore conditions shall be placed on any future permission requiring details of the ventilation system and hours of operation.

4/00143/92/FUL Change of use from A1 to A3 was granted on 19th March, 2002 for the Choy Fu Fish and Chip Shop. Condition 2 of the approval states:
"Hot food shall not be sold except between 0900-2300 on Monday to Saturday and 1000-22.30 on Sundays and Bank Holidays.

It is noted that the proposed opening hours would not be dissimilar to the existing take away use in the local centre which also have residential uses (flats above). The proposal is therefore not considered to cause significant levels of disturbance to warrant refusal given the site's location within this established local centre

The proposal is therefore in accordance with Policy CS12 (c) of the Core Strategy.

Environmental Health were consulted as part of this application and have raised no objections to the scheme, subject to the conditions required.

At the discharge of condition stage an assessment will be made of the ventilation details by the Planning Department and Environmental Health who will ensure that any impact on neighbours is adequately mitigated.

The operation of the proposed A3/A5 unit would also be subject to control via the Environmental Protection Act.

Impact on Trees and Landscaping

There are no significant trees in proximity to the proposal.

Impact on Highway Safety

Parking

The table below lists the maximum parking standards listed in Appendix 5 of the DBLP.

Description	Maximum car parking standards
A1 Retail use ie. small shops up to 500 square metres gfa	1 space per 30 square metres gfa
A3 Food and Drink ie. restaurants/cafes	1 space per 5 square metres floor space of dining area plus 3 spaces per 4 employees
A3 Hot food takeaway shops	1 space 3 square metres of floor space of public area plus 3 spaces per 4 employees

The application site falls within Accessibility Zone 4 under the Supplementary Planning Guidance, where 75%-100% of maximum demand based standard.

There will be 4 employees Monday - Thursday and 6 on Friday - Sunday.

The GFA figures provided by the applicant include:

Newsagent:

47 square metres used by Newsagent - car parking required would be 1.5 spaces.

Take Away and Restaurant:

Dining area will be approx. 5.8 square metres

Public area will be approx. 6.5 square metres

Based on the standards differing between restaurant/cafe and take away the maximum car parking required would be 5 spaces.

It is important to note that there is a difference in the amount of parking required for an A1 use compared with an A3/5 use but it is also worth noting that the site could gain an A3 use via the Prior Approval process without requiring planning permission.

It should also be taken into consideration that this is a Local Centre and therefore serves the local community who will walk to the shops when possible. The Local Centre has shared parking so applying standards for parking is extremely difficult.

Cycle Parking

Cycle parking provision requires short-term space and long-term space under saved Appendix 5 of the Local Plan. There is no provision for cycle parking in the parade only rails outside where customers lock their bikes.

The Highway Authority are now satisfied with the details of the proposal ie. the design and access statement and have no objections on Highways grounds.

RECOMMENDATION - That determination of the application be **DELEGATED** to the Group Manager, Development Management and Planning with a view to approval subject to the expiry of the consultation period and no additional material considerations being raised.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 Prior to the commencement of the potentially odorous activity a scheme for the ventilation of the premises, including the extraction and filtration of cooking fumes shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the commencement of the use being permitted.**

The information will contain in addition to efflux information and capability of the system, details of potential noise from the system

Reason: To safeguard the amenities of those premises near the application site and the appearance of the building as a whole. In accordance with Policies and procedures of Dacorum Borough Council CS 11 and 12.

- 3 The premises shall only be open to customers between 11 am and 11 pm daily. Any customers remaining on the premises after those hours shall leave the premises not later than 11.15 pm.**

Reason: In the interests of the amenities of the occupants of neighbouring dwellings and comply with CS12.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

CIL Form
Location plan
Floor Plans
Supporting information
GFA figures for existing and proposed use
Design and Access Statement

Reason: For the avoidance of doubt and in the interests of proper planning.

Article 35 Statement:

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively 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.