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App No : 19/07208/FUL App Type : FUL

Application for : Change of use from A1 (Retail) to A5 (Hot Food Takeaway) with erection of single storey rear extension & extractor flue

At 2 Centre Parade Place, Farm Way, Monks Risborough, Buckinghamshire, HP27 9JS

Date Received : 11/09/19 Applicant : Mr K Ruksan

Target date for decision: 06/11/19

1. **Summary**

- 1.1. Full planning permission is sought for the change of use of the premises from Class A1 (retail) to Class A5 (hot food and takeaway) with the erection of a single storey rear extension and an extractor flue.
- 1.2. The proposed change of use would be detrimental to the vitality and viability of the remaining shopping parade.
- 1.3. This application proposes to install an extractor flue which may prevent cooking smells from adversely affecting the amenities of adjacent residents. However, this proposal would give rise to an increase in the level of noise and disturbance to adjacent residents.
- 1.4. It is considered that this proposal fails to accord with the policies of the Development Plan and therefore is recommended for refusal.

2. **The Application**

- 2.1. No 2 Centre Parade is a ground floor retail unit situated within a parade of five units (with residential accommodation above) on the south western side of Place Farm Way, Monks Risborough. At present, the premises is used as a toy shop, with access from the adjacent grocers shop, next door.
- 2.2. An area of public car parking is sited in front of the existing shop units.
- 2.3. The application site lies within the Princes Risborough Settlement Boundary and is predominantly residential in character.
- 2.4. This application seeks full planning permission to change the use of the ground floor retail unit from Class A1 (retail) to Class A5 (hot food takeaway). It is also proposed to erect a single storey rear extension, with an extractor flue attached to the rear elevation of the building. The submitted details state that the proposed opening hours are 10.00 to 23.00hrs, 7 days a week.
- 2.5. A similar application was refused planning permission in December 2018 (reference 18/07591/FUL) on the grounds that the loss of a Class A1 retail unit would have an adverse impact on the vitality and viability of the shopping parade. It was also refused permission on the grounds that the proposed change of use would adversely affect neighbouring residents by way of increased disturbance from noise and cooking odours.
- 2.6. The applicant has submitted a statement in support of this application, which claims that both the previous and current owners have tried to run a successful A1 business from the application premises, but that this has failed. It is stated that the opening of the nearby "Tesco" food store has resulted in the decline of the Class A1 units in this parade.

- 2.7. The applicant goes on to state that the premises will be used as a “chicken and chips” food outlet, which offers a different type of food to other Class A5 units in the area. Furthermore, an extractor flue will be installed at the rear of the building to prevent noise and food odours.
- 2.8. A petition with over 80 signatures has also been submitted in support of this application.
- 2.9. The application is accompanied by:
 - a) Design and Access Statement
 - b) Class A5 Supporting Signatures

3. Working with the applicant/agent

- 3.1. In accordance with paragraph 38 of the NPPF (2019) Wycombe District Council (WDC) approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments. WDC work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.
 - In this instance the applicant was informed how the proposal did not accord with the development plan, that no material considerations are apparent to outweigh these matters.

4. Relevant Planning History

- 4.1. 89/06347/FUL Change of use to hot food takeaway (Class A3) Refused 05.07.1989
- 4.2. 92/06454/FUL Change of use to delicatessen and evening pizza home delivery. Withdrawn 29.09.1992.
- 4.3. 18/07591/FUL Change of use from Class A1 (retail) to Class A5 (hot food take away). Refused 03.12.2018.

5. Issues and Policy considerations

Principle and Location of Development

Wycombe District Local Plan (August 2019): CP1 (Sustainable Development), DM33 (Managing Carbon Emissions, Transport and Energy Generation)
DSA: DM1 (Presumption in favour of sustainable development), DM6 (Mixed-use development)

- 5.1. The application property lies within a parade of commercial shop units, where a Class A5 use would normally be found. It is therefore considered that the proposed change of use and the erection of a small rear extension is acceptable in principle

Retail issues

Wycombe District Local Plan (August 2019): CP6 (Securing Vibrant and High Quality Town Centres), DM29 (Community Facilities)

- 5.2. Policy DM29 of the adopted Wycombe District Local Plan states that “land or buildings currently or last occupied as a community use must be retained unless the applicant has clearly demonstrated through an exhaustive needs assessment that the land and/or buildings proposed to be lost are surplus to any community needs.” Paragraph 6.93 of the adopted Local Plan makes it clear that the community uses considered by Policy DM29 includes local/neighbourhood shops within both urban and rural areas.
- 5.3. Paragraph 92 of the NPPF states that “to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
 - a) plan positively for the provision and use of shared spaces, community facilities (such as local shops....) and other local services to enhance the sustainability of communities and residential environments;
 - b) take into account and support the delivery of local strategies to improve health,

- social and cultural well-being for all sections of the community
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs
 - d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community..."
- 5.4. At present, only two of the existing shop units within Centre Parade are in Class A1 retail use (including the application premises). Two neighbouring units are in Class A5 use and one unit is in use as a Class B1 office. Therefore, this proposal will result in the retention of only one unit in Class A1 use.
- 5.5. A similar proposal was considered on appeal in 1989. At that time, the Planning Inspector concluded that Centre Parade was a **“very small shopping centre for the catchment area which it serves, comprising of only 6 shops, of which 2, a traditional fish and chip shop and a coin-operated laundrette, are already in non-retail use. Moreover, I note that many of the people who shop at the centre are elderly and without cars, and that the Princes Risborough shopping centre is about a mile away. Consequently it appears to me that Centre Parade already offers a limited range of shops and choice to the community and the loss of yet another retail unit would cause a further serious deterioration in its vitality, attractiveness, and the level of service it offers to the public.”**
- 5.6. In April 2000, Unit 1 changed its use from Class A1 retail to Class B1 office. Although, since the Inspectors decision, a Tesco Store has been built on the edge of the Princes Risborough town centre, this facility remains about a mile from Place Farm Way. It is considered that this distance is too far for most people to walk in order to obtain basic retail items. Therefore, the existing retail units at Centre Parade provide a vital service to the community to which they serve.
- 5.7. It is considered that this proposal will be harmful to the vitality and viability of the shopping centre, contrary to Policy DM29 (community facilities) of the adopted Local Plan. Although the applicant has stated that neither he nor the previous owner of the premises has been unable to run a successful Class A1 business, no evidence in the form of a needs assessment has been provided to support the proposal.
- 5.8. The applicant's claim that the sale of “chicken and chips” will result in a different food option for local people must also be dismissed. The planning system can only control the planning use the premises and not the type of food sold.

Transport matters and parking

Wycombe District Local Plan (August 2019): CP7 (Delivering the infrastructure to support growth), DM33 (Managing Carbon Emissions, Transport and Energy Generation)
 DSA: DM2 (Transport requirements of development sites)

- 5.9. The existing shopping parade has a limited area for off street car parking, providing space for approximately 6 cars. Further on-street car parking facilities are also available in the immediate area surrounding the application site.
- 5.10. In accordance with the Buckinghamshire Countywide Parking Guidance, this proposal would result in an increase in parking requirement, from three spaces to ten spaces. However, due to the site relying upon shared parking spaces to the front of the site; the unclassified nature of Place Farm Road; and the nature of parking use associated with vehicles accessing hot food takeaways, the County Highways Authority do not consider that this proposal will result in a highways safety issue, on this occasion.

Raising the quality of place making and design

Wycombe District Local Plan (August 2019): CP9 (Sense of place), DM34 (Delivering Green Infrastructure and Biodiversity in Development), DM35 (Placemaking and Design Quality)

- 5.11. It is considered that this proposal will have no adverse effect upon the character of the surrounding area or the visual amenity of the street scene.

Amenity of existing and future residents

Wycombe District Local Plan (August 2019): DM35 (Placemaking and Design Quality), DM40 (Internal space standards)
Housing intensification SPD

- 5.12. In his decision, the previous Planning Inspector concluded that the then proposed change of use to a hot food takeaway would add to the noise and disturbance already experienced by the occupiers of the first floor flats. Furthermore, the cumulative effect of the proposal would cause unacceptable harm to the amenity of the occupiers of the flats.
- 5.13. It is considered that the current proposal would also attract a similar amount of activity as that proposal and therefore an unacceptable degree of noise and disturbance to the neighbouring residents, particularly late at night.
- 5.14. Details of a ventilation system have been submitted which may prevent cooking smells from disturbing neighbouring residents. The Council's Environmental Health Officer has assessed the details submitted with this application and requires that further information be submitted regarding the extractor system and noise/odour prevention. It is considered that this matter could be dealt with by way of a planning condition were permission granted.
- 5.15. However, the submitted plans show that the proposed extraction flue will be installed between the two habitable room windows of the above flat. The siting of the flue in such a position will be particularly unneighbourly and will detract from the outlook of this residential property.
- 5.16. Concern has been raised by a local resident that the proposed rear extension will block light to the windows of a ground floor porch. However, any loss of light occurred will not be significantly detrimental to the amenities of the neighbouring residents to justify a refusal of planning permission.
- 5.17. Concern has also been raised by a neighbouring resident that the proposed rear extension will be erected partly on land outside of the applicant's sole ownership/control and will interfere with access rights of other residents in the parade. In light of this concern, the applicant has submitted a Certificate B and served notice on the adjacent leaseholder. However, the proposed storage area would not appear to be in a position that would affect access to anywhere except the site itself.

Weighing and balancing of issues – overall assessment

- 5.18. This section brings together the assessment that has so far been set out in order to weigh and balance relevant planning considerations in order to reach a conclusion on the application.
- 5.19. In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:
 - a) Provision of the development plan insofar as they are material
 - b) Any local finance considerations, so far as they are material to the application (in this case, CIL)
 - c) Any other material considerations
- 5.20. As set out above it is considered that the proposed development would conflict with a number of development plan policies.

Recommendation: Application Refused

- 1 The proposed change of use to a hot food takeaway (Class A5 of the Town and Country Planning (Use Classes) Order 1987) would result in the loss of an existing retail shop unit in a local neighbourhood shopping parade, to the significant detriment of the vitality and viability of the shopping parade.
The proposal is therefore contrary to Policy DM29 (Community Facilities) of the adopted Wycombe District Local Plan (August 2019) and paragraph 92 of the NPPF
- 2 This proposal would result in a significant loss of amenity to the neighbouring residents by way of increased noise and disturbance from patrons visiting the premises at night. Furthermore, the size and siting of the proposed extractor flue would result in an unneighbourly form of development to the occupants of No. 2A Centre Parade by way of loss of outlook.
The proposal is therefore contrary to Policy DM35 of the adopted Wycombe District Local Plan (August 2019).

INFORMATIVE(S)

- 1 In accordance with paragraph 38 of the NPPF2 Wycombe District Council (WDC) approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments. WDC work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.

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