



Report to South Buckinghamshire Area Planning Committee

Site Location:

18 Station Parade, Denham Green, Buckinghamshire, UB9 5ET,

Proposal:

Change of use to an interchangeable use as Thai massage (a Sui Generis use) and/or uses within Class A1 (shops)

Application Number:	PL/20/2186/FA
Applicant:	Mrs Sukanya Ng
Case Officer:	Ian Severn
Ward affected:	Denham
Parish Town Council:	Denham Parish Council
Valid date:	10 July 2020
Determination date:	
Recommendation:	Conditional Permission

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 The application seeks planning permission for a change of use from a general store / hardware store (A1 Use) to an interchangeable use allowing for any A1 use including the existing, or the Sui Generis use for a Thai massage and wellbeing clinic. An interchangeable use as Thai Massage and/or a use within Class A1 is being sought to provide some flexibility for any future occupant. It is understood that the applicant 'Nuad Thai' already runs a chain of successful massage and well-being clinics throughout London and the South Bucks areas.
- 1.2 The application has been called to Committee for determination by Councillor Hollis as he considers the application will negatively impact upon other

businesses in the parade of shops and members of the public seeking to use the other shops particularly in relation to parking.

1.3 The recommendation for this application is to grant Conditional permission.

2.0 Description of Proposed Development

2.1 The application site forms part of the parade of shops on Station Parade, Denham Green. The building is characterised by a shop front fronting Station Parade at ground floor level. The current use of the building is as a general store / hardware store. The existing business has been established in the unit since before 10th March 2013.

2.2 The application seeks planning permission for a change of use from A1 use to A1 / Sui Generis (Thai massage and wellbeing clinic). The flexible use allows for use for shops in the current use class or a use as a Thai massage and wellbeing clinic containing 6 treatment rooms (one with shower facility), a reception area, a shower and toilet room and a pantry and rest area for staff. The business would employ 2 full time staff and 4 part time staff.

2.3 The application site has recently been subject to two prior-notification applications to change the rearmost part of the shop and the detached garage associated with the shop into residential units. These were determined as being prior-approval not required. Notwithstanding this, they could not be implemented in addition to the proposed change of use as they would share the same space as the Thai massage clinic and the residential use would need to be implemented from an existing sole A1 use rather than the proposed interchangeable / shared use.

2.4 The application is accompanied by:

a) Design and Access Statement

3.0 Relevant Planning History

3.1 Relevant planning history for the site:

PL/20/2288/PNR: Prior notification under Class M of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 - Change of use of rear part of shop (A1) and associated garage to two dwellings (Use Class C3) (Prior approval not required)

PL/20/2220/PNR: Prior notification under Class M of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 - Change of rear use of part of shop (A1) to one dwelling (Use Class C3) (Prior approval not required)

PL/20/2186/FA: Change of use to an interchangeable use as Thai massage (a Sui Generis use) and/or uses within Class A1 (shops) (Under consideration)

11/00992/ADV: One externally illuminated fascia sign and one externally illuminated projecting sign. (Consent granted)

11/00939/FUL: New shopfront and shutters. (Permission granted)

4.0 Summary of Representations

Planning Policy

Summarised as no objection.

Highways

Summarised as no objection.

Parish Council

“The Parish Council Strongly Objects. The change of use to Hospitality as opposed to Retail in that area is a major concern. There are already issues with parking in that area and given the nature of this proposed business the 'stay time' will be longer than passing trade using the retail businesses whom the local community and those passing through the area greatly values.”

Public consultation responses

Objecting (3 representations)

- Insufficient parking
- Insufficient showering facilities
- Will attract people from outside of locality
- Not Covid-19 compliant
- Community needs A1 retail units
- Impact on use of outdoor neighbour residential amenity space

5.0 Policy Considerations and Evaluation

- National Planning Policy Framework (NPPF), February 2019.
- Planning Practice Guidance
- National Design Guidance, October 2019
- South Bucks Core Strategy Development Plan Document - Adopted February 2011
- South Bucks District Local Plan - Adopted March 1999 Consolidated September 2007 and February 2011;
- South Bucks District Local Plan Appendix 6 (Parking standards)
- Draft Chiltern and South Bucks Local Plan 2036.
- Chiltern and South Bucks Community Infrastructure Levy (CIL) Charging Schedule

Principle and Location of Development

➤ Core Strategy Policies:

CP7 (Accessibility and Transport)

CP11 (Healthy and Viable Town and Village Centres)

➤ Local Plan Saved Policies:

S3 (Neighbourhood Shopping Areas)

- 5.1 The proposal relates to a shop located towards the centre of a parade of shops in Denham Green. The parade currently has a varied mix of units contributing towards its vitality, these include convenience stores, food outlets, professional services and local specialist's shops such as a butcher.
- 5.2 The Council's proposals map shows the parade to be considered as a Neighbourhood Shopping Area for the purposes of Local Policy, as such, amongst relevant policies, the proposal falls to be assessed under Policy S3 which seeks to ensure that new facilities positively contribute to the vitality and viability of neighbourhood shopping areas. Traffic generation also forms a principle consideration.
- 5.3 The existing shop is a hardware store constituting an A1 use under current policy consideration. The proposal seeks a unique use of Sui Generis for the purpose of a Thai Massage and Wellbeing Clinic, but with an interchangeable A1 use allowing it to revert back to an A1 use should there be insufficient demand for the service.
- 5.4 Local Plan policy S3 seeks to preserve a sufficient level of A1 retail units within Neighbourhood Shopping Areas whilst also seeking to provide vitality and viability through variety and businesses which complement the use of other units in the parade. To this end it is considered that the change of use to a Thai Massage Clinic would present the opportunity to attract people to the parade that may otherwise not use it, whilst the uniqueness of the proposal means that visitors are likely to also use other shops in the parade ancillary to the primary intent of their visit. It is therefore considered that the proposal would contribute to the vitality and viability of the parade.
- 5.5 The proposed change of use would result in the loss of an A1 unit, however it is considered that overall a sufficient level of A1 units in the form of convenience stores and several other A1 units would be retained. The option to revert back to A1 from the specific Sui Generis use is also a positive contributory factor. As such no objections are raised with regard to Policy S3.

Transport matters and parking

- Core Strategy Policies:
P7 (Accessibility and Transport)
- Local Plan Saved Policies:
TR5 (Access, highways work and traffic generation)
TR7 (Traffic generation)

- 5.6 Concern has been raised that the proposal would result in parking difficulties for other users of the Neighbourhood Shopping Area. The Council's parking standards do not include specific standards for the proposed use. Appendix 9 of the Local Plan states that where a type of development is proposed which is not included in the standards the parking requirement will be assessed by taking

into account the information submitted with the application, site and locality characteristics and experience with similar development. The Neighbourhood Shopping Area is considered to be in a highly sustainable location, with nearby rail and train links. Additionally, parking for the parade is time limited to ensure sufficient turnover of visitors and parking restrictions are in place on nearby roads. Three specific parking spaces for use by the shop to the rear of the parade are retained and the applicant has advised that their experience with their chain of Thai Massage Clinics indicates that the busiest time is likely to be during the late afternoon / early evening when many of the other units in the parade will be at their quietest or closed.

- 5.7 The Council's Highway Team have also noted that due to the nature of the site, the premises would expect to see a high turnover in the number of spaces required within a day given the site would operate on an appointment only basis. The Highway Team also note that at the busiest time of operation, the use would receive approximately 5 customers per hour. Due to the capacity of the site this number of customers per hour is also likely for the existing use of the site as a shop and it is considered that the proposal would not therefore result in a worsening of the parking situation to the extent that an objection could be sustained. The Council's Highways team also consider the proposal to be acceptable in terms of its impact on the highway network and highway safety. No objections are therefore raised with regard to parking and highways.

Amenity of existing and future residents

➤ Local Plan Saved Policies:

EP3 (The Use, Design and Layout of Development)

- 5.8 The proposal would not result in any additional built form and is not expected to create any amenity harm in relation to noise, smell or other nuisance considerations. Although concern has been raised that the proposal would impact the use of the rear outdoor areas of neighbouring properties it is not anticipated that this would be the case as customers would enter and exit through the main entrance on the front of the shopping parade as existing.
- 5.9 For the reasons presented in this Statement, Officers consider that the proposed development would comply with National and Local Policy and should therefore be approved.

6.0 Weighing and balancing of issues / Overall Assessment

6.1 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 (such as CIL if applicable), and,
 - c. Any other material considerations
- 6.2 The NPPF sets out the presumption in favour of sustainable development, and for decision making, setting out approving development proposals that accord with up to date development plans without delay.
- 6.3 Section 2, paragraph 8 of the NPPF sets out three overarching objectives, these are set out as Economic, Social and Environmental objectives. Overall it is considered that the proposed development would align with the aims of sustainable development in line with section 2 of the NPPF. The proposal would fulfil economic objectives in terms of supporting growth. The proposal would result in the creation of jobs through greater employment from the proposed use. A social objective would also be met as the proposal would contribute to the vitality and viability of the shopping parade.
- 6.4 The proposed development would therefore accord with both National and Local Plan Policies and is subsequently recommended for conditional permission.
- 6.5 Local Planning Authorities, when making decisions of a strategic nature, must have due regard, through the Equalities Act, to reducing the inequalities which may result from socio-economic disadvantage. In this instance, it is not considered that this proposal would disadvantage any sector of society to a harmful extent.
- 6.6 It is considered that a fair and reasonable balance would be struck between the interests of the community and the human rights of the individuals concerned in the event of planning permission being granted in this instance.
- 7.0 Working with the applicant / agent**
- 7.1 In accordance with paragraph 38 of the NPPF (2019) the Council 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.
- 7.2 The Council 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.
- 7.3 In this instance -
The application as submitted was considered to be acceptable and the applicant was kept advised of the need for the proposal to go before the Planning Committee.

Recommendation: Conditional Permission

Subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of three years beginning from the date of this decision notice. (SS01)

Reason: To comply with the provisions of Section 91(1) (a) of the Town and Country Planning Act 1990 (or any statutory amendment or re-enactment thereof).

2. The Thai Massage business hereby permitted shall only operate between the hours of 09:00 and 21.00 Monday to Friday and 09:00 and 21:00 on Saturday, Sunday and Bank Holidays.

Reason: To accord with the submitted application and to safeguard the amenities of the surrounding residential properties. (Policy EP3 of the South Bucks District Local Plan (adopted March 1999) refers.)

3. The development to which this planning permission relates shall be undertaken solely in accordance with the following drawings:

List of approved plans:

<u>Received</u>	<u>Plan Reference</u>
10 Jul 2020	Sheet # 1 / 2
10 Jul 2020	Sheet # 2 / 2

INFORMATIVE(S)

1. The Council is the Charging Authority for the Community Infrastructure Levy (CIL). CIL is a charge on development; it is tariff-based and enables local authorities to raise funds to pay for infrastructure.

If you have received a CIL Liability Notice, this Notice will set out the further requirements that need to be complied with.

If you have not received a CIL Liability Notice, the development may still be liable for CIL. Before development is commenced, for further information please refer to the following website <https://www.southbucks.gov.uk/CIL-implementation> or contact 01494 732792 for more information.

2. Due to the close proximity of the site to existing residential properties, the applicants' attention is drawn to the Considerate Constructors Scheme initiative. This initiative encourages contractors and construction companies to adopt a considerate

and respectful approach to construction works, so that neighbours are not unduly affected by noise, smells, operational hours, vehicles parking at the site or making deliveries, and general disruption caused by the works.

By signing up to the scheme, contractors and construction companies commit to being considerate and good neighbours, as well as being clean, respectful, safe, environmentally conscious, responsible and accountable. The Council highly recommends the Considerate Constructors Scheme as a way of avoiding problems and complaints from local residents and further information on how to participate can be found at www.ccscheme.org.uk. (SIN35)

APPENDIX A: Consultation Responses and Representations

Councillor Comments – Councillor Guy Hollis

Material planning consideration: ' Impact on community and other services'. (Design and access statement flawed/no parking assessment. 3 spaces not enough and staff/clients' vehicles will overwhelm stretched public parking at the parade with long stay parkers using up limited spaces therein rather than peripatetic shoppers thus preventing other businesses' users from access to their shops to the detriment of these other services. Restaurants only do significant trade in the evenings so no precedent set by them etc etc)

Parish/Town Council Comments

The Parish Council Strongly Objects. The change of use to Hospitality as opposed to Retail in that area is a major concern. There are already issues with parking in that area and given the nature of this proposed business the 'stay time' will be longer than passing trade using the retail businesses whom the local community and those passing through the area greatly values.

Consultation Responses

Planning Policy:

Development Plan

The Development Plan comprises the Core Strategy adopted February 2011 and the South Bucks District Local Plan adopted 1999 in which policies have been saved. Both plans are proposed to be replaced by a new local plan (covering the former Chiltern and South Bucks Districts) to cover the period up to 2036. Buckinghamshire Minerals and Waste local plan also forms part of the Development plan but is not relevant to this proposal.

Core Policy 11 of the Core Strategy - states that Proposals for new retail, office and other main town centre uses should enhance the vitality and viability of centres

Policy S3 - NEIGHBOURHOOD SHOPPING AREAS of the adopted Local Plan defines Denham Green shops as a neighbourhood centre. Within such centres the change of use from retail to another use will only be permitted where it enhances the function of the retail centre and where it doesn't lead to a dominant part of the frontage being in non-retail use. The written justification does state that consideration will be given to retail units which have been vacant for a long time and or advertised for a retail use and have had no interest.

Parking standards are set out in the local plan – Other planning policy Material Planning considerations

NPPF para 2 states applications should be determined in accordance with development plan unless material considerations indicate otherwise and that the NPPF itself is a material consideration.

Para 85 – planning decisions should support the role that town centres play in the heart of local communities and take a positive approach to their growth management and adaptation.

Use Classes order – recent changes to the Use Classes order have combined many Town centre type uses into Class E. However, the old Class A2 did allow for other professional services and or other services appropriate to a shopping centre serving visiting members of the public and or Class D1. (a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner, As such it is considered that the proposed massage parlour use may be considered as such a use and not Sui generis as requested by the applicant.

Summary

The existing shop unit appears to be in an A1 use.as such if the proposed use requires planning permission the Local Plan policies would apply. In which case an assessment of the proportion on non-A1 to A1 uses in the frontage would need to be undertaken and or some evidence of marketing the unit for A1 use without any interest and a consideration if the proposed use would attract people to the shopping area. Given the changes to the Use classes order it is assumed any planning permission granted would allocate the unit to a Class E use and as such the potential for change of use of the unit from the former A1 Use to an alternative E use would be possible without planning permission being required and this would be a material consideration in any planning decision made.

Conclusion

The development proposed a change of use of an A1 unit to a mixed A1 Sui Generis use would appear to be a suitable use for a parade of shops the application of the Local Plan policies would require an assessment of the proportion of Shop (former A 1) to non-shop units in the frontage however without making a site visit the proposal would appear to be acceptable in general policy terms.

Buckinghamshire Highways:

Thank you for your letter dated 20th August 2020 with regard to the above planning application.

I note the Highway Authority has provided previous comments for this site, under application no. PL/20/2288/PNR, which in a response dated 24th August 2020; the Highway Authority had no objection to the change of use from the rear part of the shop and garage to two residential units.

Station Parade is an unclassified road which benefits from parking restrictions in the form of double yellow lines and restricted parking bays, allowing parking for 1 hour on Monday – Saturday between 8am and 6pm and no return within an hour. This application seeks permission for the change of use from a Class A1 shop to an interchangeable use as a Thai massage and/or uses within Class A1.

In terms of trip generation, having assessed the proposals, it appears there are 6 treatment rooms and 6 members of staff, 2 full-time and 4 part-time. Following the submission of additional information from the applicant, they anticipate to receive a maximum of 30 customers in a day, which, coupled with the number of staff, would have potential to generate up to 72 daily vehicle movements, two-way. It should be noted that this is the worst-case scenario for the site.

Having carried out a TRICS® assessment of the existing use as a hardware store, it appears the current site is expected to generate approximately 41 daily vehicular movements, two-way. However, it should be noted that the current site has a use class of Class A1 and therefore the site could hold any business within this use class without the need for planning permission. As a result, I consider that the existing site as A1, which is also the proposed interchangeable use, has the potential to generate a larger number of vehicular movements than the proposed development.

With regards to parking, no additional spaces have been provided and therefore all customers will be required to park on the highway, most likely within the restricted parking bays or on Morten Gardens which also benefits from parking restrictions. Whilst this is not ideal, due to the nature of the site, I would expect to see a high turnover in the number of spaces required within a day, given the site would operate on an appointment only basis. In addition, the site is in a highly sustainable location due to the close proximity of Denham railway station and a number of local bus stops with regular services. I note however, that the level of parking proposed is a matter for the planning officer to comment upon and as such I trust that this will have been taken into consideration as part of your assessment of the proposals.

The applicant has stated that at the busiest time of operation, they could receive a maximum of 5 customers per hour due to the capacity of the site; I consider this number of customers per hour also likely for the existing use of the site. Therefore, I do not believe I could sustain a reason for refusal on this basis.

Mindful of the above, I have no objection to the proposed development and no conditions to include in this instance.

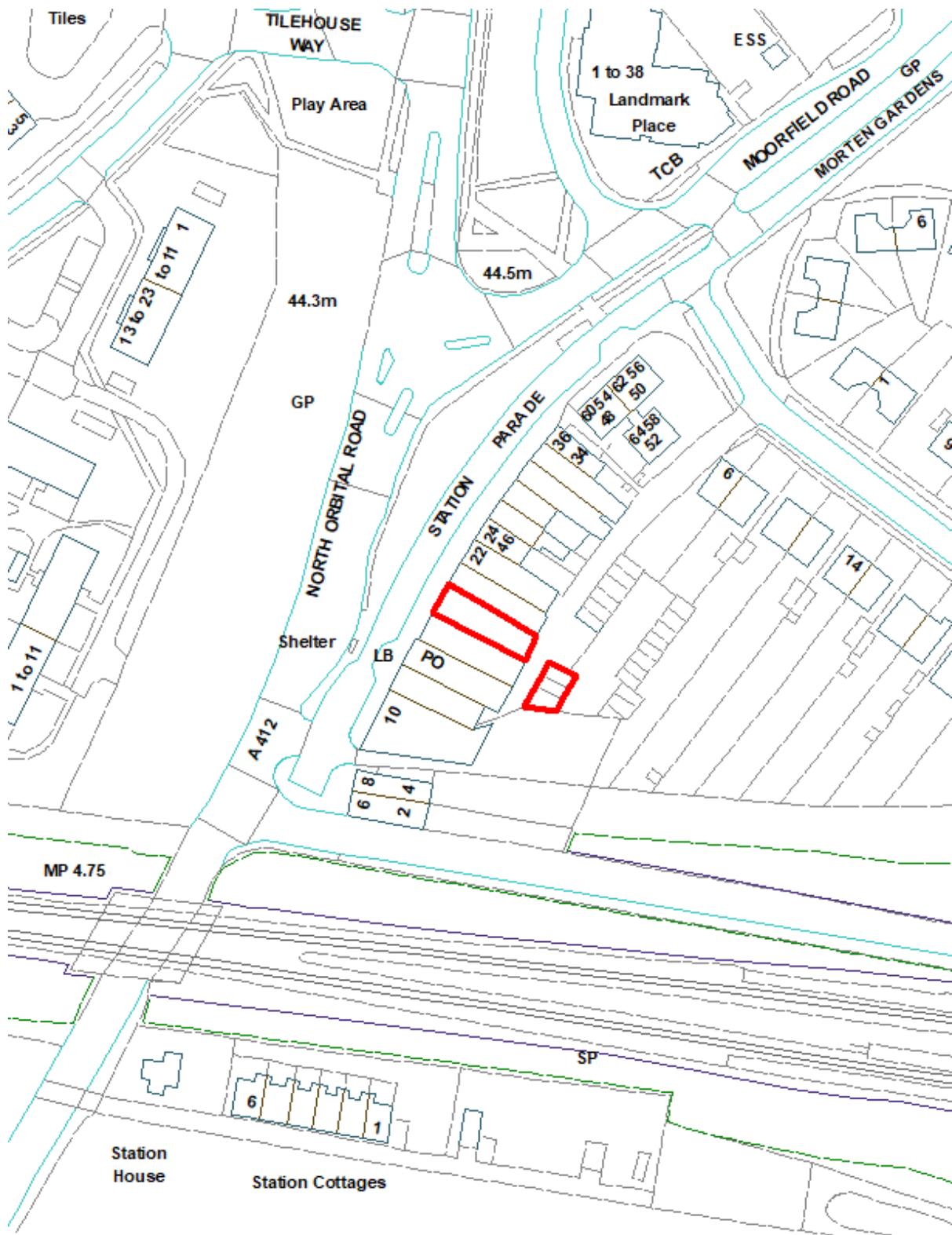
I trust these comments have been of some assistance.

Representations

3 comments have been received objecting to the proposal:

- Insufficient parking
- Insufficient showering facilities
- Will attract people from outside of locality
- Not Covid-19 compliant
- Community needs A1 retail units
- Impact on use of outdoor neighbour residential amenity space

APPENDIX B: Site Location Plan



Do not scale – this map is indicative only

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