



Report to East Area Planning Committee

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| Application Number: | PL/21/1863/FA |
| Proposal: | Change of Use to a Hot Food Takeaway (Sui Generis) with internal and external alterations including new rear extraction and boiler flues, fresh air intake grille and side door |
| Site location: | 41 Sycamore Road, Amersham, Buckinghamshire, HP6 5EQ |
| Applicant: | Papa John's (GB) Ltd |
| Case Officer: | Emma Showan |
| Ward affected: | Amersham and Chesham Bois |
| Parish-Town Council: | Amersham Town Council |
| Valid date: | 20 May 2021 |
| Determination date: | 23 September 2021 |
| Recommendation: | Refuse Permission |

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 The application proposes the change of use of 41 Sycamore Road, Amersham, from a shop (Use Class E(a)) to a hot food takeaway (Sui Generis) with internal and external alterations. The main issues for consideration are the impact of the proposal on the service provision of the High Street; the impact on neighbouring amenities; and the impact of the proposal on the adjacent highway.
- 1.2 Councillor King has requested that this application be determined by the Planning Committee, irrespective of the Officer recommendation, on the basis of concerns regarding parking outside of the site; anti-social behaviour and nuisance to residents' amenity.
- 1.3 The application is recommended for refusal.

2.0 Description of Proposed Development

- 2.1 This application relates to a premises located on Sycamore Road, in the built-up area and Designated Shopping Area of Amersham-on-the-Hill. The premises

were previously occupied by a retail unit at ground floor level (formerly Use Class A1, now Use Class E(a)) with residential accommodation above.

- 2.2 Specifically, the site comprises a ground floor mid terrace retail premises within a three-storey building. The shop front is fully glazed and modern comprising a glazed entrance door with single display windows on either side all of which are within aluminium frames. There is an awning above together with a fascia-signage board that runs the length of the frontage. The building is neither statutorily nor locally listed. The application site also includes the service yard and parking area to the rear.
- 2.3 The proposed development comprises the change of use of 41 Sycamore Road, Amersham, from a shop (Use Class E(a)) to a hot food takeaway (Sui Generis) with internal and external alterations. The Proposed Floor Plan shows the internal layout comprising a customer order and waiting area at the front of the premises, beyond which would be a kitchen, beyond which would be a cold store, washing-up area, staff toilet and control hub (dispatch area) at the rear.
- 2.4 Internal works include the installation of a customer reception area and sales counter, gas oven, extraction system comprising stainless steel extract hood, galvanised ductwork and fans, preparation tables, refrigerators, freezers, cold store, sinks and dispatch tables.
- 2.5 External works include the erection of a new rear extraction and boiler flues, fresh air intake grille and side door.
- 2.6 Planning permission is sought for the use to operate from 08:00am to 11:00pm Sunday to Thursday and Bank Holidays and from 08:00am to 01:00am on Fridays and Saturdays.
- 2.7 The application is accompanied by:
 - a) Design and Access Statement
 - b) Extraction Ventilation Supporting Document
 - c) Noise Assessment

3.0 Relevant Planning History

- 3.1 PL/21/0656/FA - Sub-division of rear single storey flat roofed store to Retail Unit at 41 Sycamore Road, removal of external residential access stairs and construction of new self-contained two storey commercial unit (Use Class E 2020). Installation of new access stairs to first floor flats and confirmation of amenity spaces to Flats 1, 2, 2A, 2B, 3 and 3A plus provision of 3 designated parking spaces; conditional permission.
- 3.2 CH/1990/1353/FA - New shopfront and replacement single storey rear extension; conditional permission.

4.0 Summary of Representations

- 4.1 Objection from the Town Council.
28 Letters of objections.

1 Letter of support.
Objection from Amersham & District Residents Association.
Objection from Amersham Action Group.

5.0 Policy Considerations and Evaluation

National Planning Policy Framework (NPPF), 2021.
National Design Guidance, October 2019
Core Strategy for Chiltern District - Adopted November 2011:
Chiltern Local Plan adopted 1 September 1997 (including alterations adopted 29 May 2001), consolidated September 2007 and November 2011.
Chiltern and South Bucks Community Infrastructure Levy (CIL) Charging Schedule

Principle and Location of Development

Core Strategy Policies:

CS1 (The spatial strategy),

CS18 (Development Within District Shopping Centres),

Local Plan Saved Policies:

S5-AH (Shopping Frontages in the District Shopping Centre of Amersham-on-the-Hill as Defined on the Proposals Map - Changes of Use To, or Between, Non Class A1 Shop Uses on Ground Floors)

- 5.1 The application site is located within Amersham-on-the-Hill designated District Shopping Centre, as defined on the Local Plan Proposal Maps. The NPPF states that planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth centres. It also states that Local Planning Authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. The relevant Development Plan Policies relating to the District Shopping Centres (Core Strategy Policy CS18 and Local Plan Policy S5-AH) reflect these aims and are therefore consistent with the NPPF.
- 5.2 The supporting text to Policy CS18 states that the function of the District Shopping Centres will be protected by using the saved Local Plan Policies. The most relevant Local Plan policy to this application is Policy S5-AH which relates specifically to Amersham-on-the-Hill and provides the detailed assessment criteria for change of uses within this District Shopping Centre. Policy S5-AH states that the Council will seek to achieve a wide range of uses appropriate to the town centre, and balance the proportion of Class A1 shops to non-Class A1 shops, to enable the provision of a range of services and facilities and enhance the character and attractiveness of the Centre. It states that changes of use to, or between, non-Class A1 uses will be permitted where the Council considers that the use proposed will make a positive contribution to, or will not detract from, the vitality and viability of the part of the shopping centre in which the development is located. It also states that the type of uses which will be permitted are those that complement Class A1 shop uses and attract people to the centre by providing services direct to a large number of people. Whilst the benefits of new non-Class A1 shop uses are acknowledged, proposals must be carefully considered in order to ensure that their various amenity,

environmental and transport related implications are acceptable. The Council will take into account the characteristics of the proposed use, for example, noise generation; creation of smells, fumes; likely number of customers; opening hours and proximity of car-parking and compare these with the characteristics of existing land-uses of the application site.

- 5.3 It is noted that from 1 September 2020, changes were made to the Use Classes Order. For the purposes of Use Class A1/2/3 & B1, these now all fall within a new Use Class E. The existing premises were in the former Use Class A1 (retail) and so have now become part of the new Use Class E (encompassing many commercial uses). The changes to the use classes allow for the change of use within the same use class, as such changes no longer constitute development. In this instance, the application proposes the change of use of the premises to the former Use Class A5 (now a Sui Generis use, i.e. without a use class). As Use Class A5 is now defined as Sui Generis, planning permission is required for this element of the proposal. It is noted that this application does not propose a restaurant element, and will purely be a takeaway. If a restaurant had been proposed, this would not have required planning permission, given that restaurants also fall under the Use Class E.
- 5.4 As set out above, the most relevant Local Plan Policy to this application S5-AH which relates specifically to the shopping frontages within Amersham-on-the-Hill. The criterion within the Policy sets a limit of 50% for the proportion of non-A1 Class retail uses. Along this section of the Shopping Centre there are a range of Use Classes, although the majority along this section of the High Street is predominantly dominated by retail, or former retail, units. Directly across the road too, are a row of retail units, including two supermarkets. However, taking into account the distribution of restaurants along the High Street as a whole, there is a sizeable number of restaurant and takeaway outlets. Specifically, there are three existing pizza premises; a Dominoes, Pizza Hut and Pizza Express, all of which offer takeaway pizza and all of which are within walking distance from the application site. However, it is important to note that competition between similar types of outlet is not a material planning consideration. For example, concern could be raised regarding a proliferation of takeaways in a specific area, but not specifically to pizza takeaways.
- 5.5 Relating to the above, the Policy also states that in assessing applications for new town centre uses the Council will have regard to the characteristics of the proposed service or facility, particularly its attraction for shoppers and other users of the Centre; its contribution to the character and appearance of the frontage in which the application site is located; the size of premises to be occupied, especially the width of the frontages to the street and the prominence of the premises for which change of use is sought.
- 5.6 With regards to the characteristics of the proposed service or facility, particularly its attraction for shoppers and other users of the Centre, concerns are raised with respect to the introduction of another fast food outlet in this location. The proposed business would introduce the fourth takeaway along the High Street and so there would be a reduction in the diversity of food

outlets along the High Street as a whole and a diversity in business types as a whole. Furthermore, the nature of the proposed premises is such that there would not be a restaurant element and it would purely be a takeaway business. This means that the site is less likely to be a 'destination' which would attract shoppers and other users to the centre, with instead business being transient and reliant on takeaways being delivered to peoples' homes.

- 5.7 As per the provisions of Chapter 7 of the NPPF, it is recognised that additional uses add to the variety within the centre and improve its vitality and vibrancy. However, in this instance, it is not considered that the introduction of an additional takeaway business in this location would improve the vitality and vibrancy of the town centre, given that there are existing similar outlets. Furthermore, the absence of an associated restaurant on site means that the development is unlikely to attract business to the town centre.
- 5.8 In addition, Paragraph 92 of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places which...enable and support healthy lifestyles, especially where this would address identified local health and well-being needs - for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling. It is considered that the proposal, which, if approved, would result in the creation of another fast food outlet on the High Street, and would fail to provide access to healthier food. Whilst it is acknowledged that there are other fast food outlets along the High Street, the Council considers that the approval of this development would increase the saturation of such businesses on the High Street, to the detriment of the health of the community and to the detriment of the vitality of the town centre.
- 5.9 For these reasons, it is considered that the change of use of the premises in this location would not be acceptable.

Raising the quality of place making and design

Core Strategy Policies:

CS4 (Ensuring that the development is sustainable)

CS20 (Design and environmental quality)

Local Plan Saved Policies:

GC1 (Design of development)

- 5.10 It is considered that the proposed external alterations would be in keeping with the character and appearances of other frontages and businesses along the high street. Consideration must also be given to the likely pedestrian and vehicular traffic generated by the proposal, car parking requirements and other impacts such as noise, smell, pollution, vibration and general disturbance. The latter of these aspects will be determined within 'residential amenity' section of this report.
- 5.11 In this regard, given the nature of the proposed use, the level of pedestrian movement is considered to be materially greater than the existing use of the premises as a charity shop. This would also be during evenings and weekends.

Nonetheless as movements along the frontage are currently high, the addition of the new use is not considered to exacerbate the movements further to a harmful degree, and it is not considered that the increase in footfall would be detrimental to this town centre location; conversely any increase in footfall would be beneficial to a town centre location.

- 5.12 Overall, it is not considered that the external alterations (which are minor in nature) or the change of use would be harmful to the character or appearance of the High Street. The location in the designated shopping centre means that restaurant/takeaway uses are not uncommon in this setting whilst the building frontage would remain in keeping with other shop frontages.
- 5.13 Any new signage would be subject to a separate application for advertisement consent.

Amenity of existing and future residents

Local Plan Saved Policies:

GC3 (Protection of amenities throughout the district)

GC7 (Noise-generating developments throughout the district)

GC8 (Residential and other noise sensitive development in areas of high noise level throughout the district)

- 5.14 The premises concern a three storey building, with the ground floor unit being one within a row of other retail premises. Above the commercial units are located residential flats. Other buildings further along the high street and across the road, are characterised by town centre uses at ground floor level with residential accommodation above. Given the proximity of the premises to residential and other commercial uses, it is necessary to consider the impacts of the proposal in relation to noise, smell, pollution, vibration and general disturbance.
- 5.15 It is noted that a number of third party representations have raised concerns regarding these areas, specifically: concerns regarding increase in noise; anti-social behaviour; kitchen smells; vermin; and harm to adjacent neighbouring properties and commercial businesses.
- 5.16 To this end, the Council's Environmental Health Officer has been consulted and they have reviewed the proposal raising no objections, subject to conditions. The proposed conditions relate to hours of deliveries, waste and glass collection and odour control on site.
- 5.17 With regards to waste provision, the premises have access to a rear service area. A condition requiring a scheme for the storage of waste and recycling receptacles and a refuse strategy to be submitted for approval by the Local Planning Authority is recommended to ensure that there is no resultant harm to neighbouring properties and businesses.

Transport matters and parking

Core Strategy Policies:

CS25 (Dealing with the impact of new development on the transport network)

CS26 (Requirements of new development)

Local Plan Saved Policies:

TR2 (Highway aspects of planning applications)

TR12 (Relaxation of parking standards)
TR14 (Retention of existing areas of off-street vehicle parking)
TR15 (Design of parking areas)
Buckinghamshire Parking Guidance September 2015

- 5.18 There is no parking provision for the existing use or the proposed use. Policy TR12 of the Local Plan sets out circumstances where the Council's parking standards can be relaxed or waived. This includes development in a District or Local Shopping Area, provided there is adequate public parking space available within a reasonable distance of the development site. The site is located close to a public car park and in close proximity to a number of other off road parking bays.
- 5.19 Although third party comments regarding insufficient parking and access arrangements are noted, the Highway Authority has not raised any objections to the proposed change of use. They have confirmed that a proportion of trips will be linked with other amenities within the town and a large public car park is available within proximity of the site. They are also satisfied that the local highway network is protected from displaced parking in the form of double yellow lines and restricted parking bays which would prevent a detriment to highway safety or convenience. This is an important point to note as objections cannot be raised to the likelihood of additional parking in the vicinity of the site, if such parking is already prevented or controlled by other means. The Highway Authority has raised no objection to the proposed development. Based on the assessment and conclusions of the Highway Authority, no objections are raised with regards to the impact of the proposal on parking or the local highway network.

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 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.

7.0 Working with the applicant / agent

- 7.1 In accordance with paragraph 38 of the NPPF (2021) 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 works 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 case, the proposal did not accord with the Development Plan, and no material considerations were apparent to outweigh these matters. It was not considered that any changes would have reasonably overcome these issues, so the application was recommended for refusal on the basis of the submitted plans.

8.0 Recommendation

Refuse permission

For the following reasons:-

1. The application proposes the change of use of the premises to allow for a hot food takeaway (sui generis) outlet. Local Plan policy S5-AH states that in assessing applications for new town centre uses the Council will have regard to the characteristics of the proposed service or facility, particularly its attraction for shoppers and other users of the Centre. In this instance, the proposed business would introduce the fourth takeaway outlet along the High Street and so there would be a reduction in the diversity of business types as a whole. In this instance, the introduction of an additional takeaway business in this location would not improve the vitality and vibrancy of the town centre, given that there are existing similar outlets. Furthermore, the development is unlikely to attract business to the town centre. In addition, Paragraph 92 of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places. The proposal would result in the creation of another fast food outlet on the High Street and would fail to provide access to healthier food. The Council considers that the approval of this development would increase the saturation of such businesses on the High Street, to the detriment of the health of the community and to the detriment of the choice and vitality of the town centre. For this reason, the application fails to comply with Policy S5-AH of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011 and the provisions of the National Planning Policy Framework, 2021.

APPENDIX A: Consultation Responses and Representations

Councillor Comments

Councillor David King: I am requesting that this application be called in for detailed consideration by the planning committee for the following reasons:

- The proposed Papa John's takeaway frontage is within the Zig Zag lines of a Zebra Crossing which could result in illegal, hazardous and inconsiderate stopping and/or parking by customers and delivery drivers. Highway Code Zebra Crossing regulation 191 states "You MUST NOT park on a crossing or in the area covered by the zig-zag lines".
- The applicant's submission confirms that peak trading hours every day are 18.00 to 21.00. The request to extend opening hours on Friday and Saturday until 0100 is likely to cause nuisance to local residents and have the potential to facilitate anti-social behaviour.
- The proposed positioning of two 1100 ltr wheelie bins near the residents access staircase at the rear of the building will adversely impact the residents amenity.
- Constant use of the rear access road and entrance to the store by delivery drivers is likely to cause nuisance to local residents.

Town Council Comments

Members unanimously objected to the application on the following grounds:

- Access road issues
- Parking /collection point at the front appears potentially hazardous
- The surrounding area is of mixed use (commercial and residential properties) and the proposed 1am licence for weekend trade would be highly disruptive for residents
- Poor location for bin store
- Too similar to other takeaways already existing in the area, which does not offer diversity of trade
- Members also felt that this location would be more suited to a daytime retailer

Members are aware of another application recently approved for this area (PL/21/0656/FA), and that the two applications are incompatible, in that the proposals for 41 Sycamore Road would not be possible if the approved plans for 21/0656 were executed.

Officer note: Application PL/21/0656/FA proposed the change of use (from a bank) to restaurant (Use Class E) and takeaway (Sui Generis use) and new shopfront. The Officer Report noted that from 1 September 2020, for purposes of Use Class A1/2/3 & B1, these are to be treated as Class E. In this instance, the existing premises were in Use Class A2 and so have become part of the new Use Class E. The changes to use classes allow for the change of use within the same use class. Therefore, as the application proposed the change of use to two uses, former Use Class A3 restaurant, and former Use Class A5 hot food takeaways and as Use Class A3 has now been replaced with Use Class E, no planning permission was required for the change of use of the former bank to a restaurant. However, the Use Class A5 is now defined as Sui Generis and planning permission was required for this element of the proposal.

The current application differs from the scheme approved as part of PL/21/0656/FA, as it does not propose the creation of a restaurant with a takeaway element. Instead, it will purely be a takeaway outlet, minus any 'eating in' provision for customers.

Consultation Responses

Environmental Health Officer: Environmental Health acknowledges the data submitted and methodology used to assess the noise impact from the plant at the nearest sensitive receptors. The assessment concludes that noise levels will not give rise to a noise nuisance to the local vicinity.

Environmental Health accept the assessments findings and have no objection to raise on the matter of noise from the fixed plant.

Highway Officer: Sycamore Road is a B class road, also known as the B4441, which is subject to a 30mph speed limit. This application seeks permission for the change of use from a shop (retail) to a hot-food takeaway. Parking restrictions are present within the vicinity of the site in the form of restricted parking bays, allowing parking for 1 hour, Monday - Saturday between 8am and 6pm, with double yellow lines on the opposing side of the road.

In terms of trip generation, having interrogated the TRICS® database, comparable sites have not been identified for the existing and proposed uses of the site. However, I have made an assessment based on similar sites available on TRICS® and knowledge of existing sites. Having made this assessment, it is expected that the proposed use of the site will result in a decrease in movements, taking into account the difference in floorspace.

It is acknowledged that a proportion of the trips to the restaurant would be linked/by-pass trips due to being located within a town centre, and sustainable transport modes are expected to be used by visitors of the site.

On-site parking has been included as part of these proposals, however I envisage that this is mainly for staff parking and is not expected to be apparent to visitors. As previously mentioned, it is acknowledged that a proportion of trips will be linked with other amenities within the town centre and a large public car park is available within the vicinity of the site. In addition, I am satisfied that the local highway network is protected from displaced parking in the form of double yellow lines and restricted parking bays which should prevent a detriment to highway safety or convenience.

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

Representations

Amenity Societies/Residents Associations

Objection from Amersham & District Residents Association.

Objection from Amersham Action Group.

Other Representations

28 letters of objection received which are summarised below:

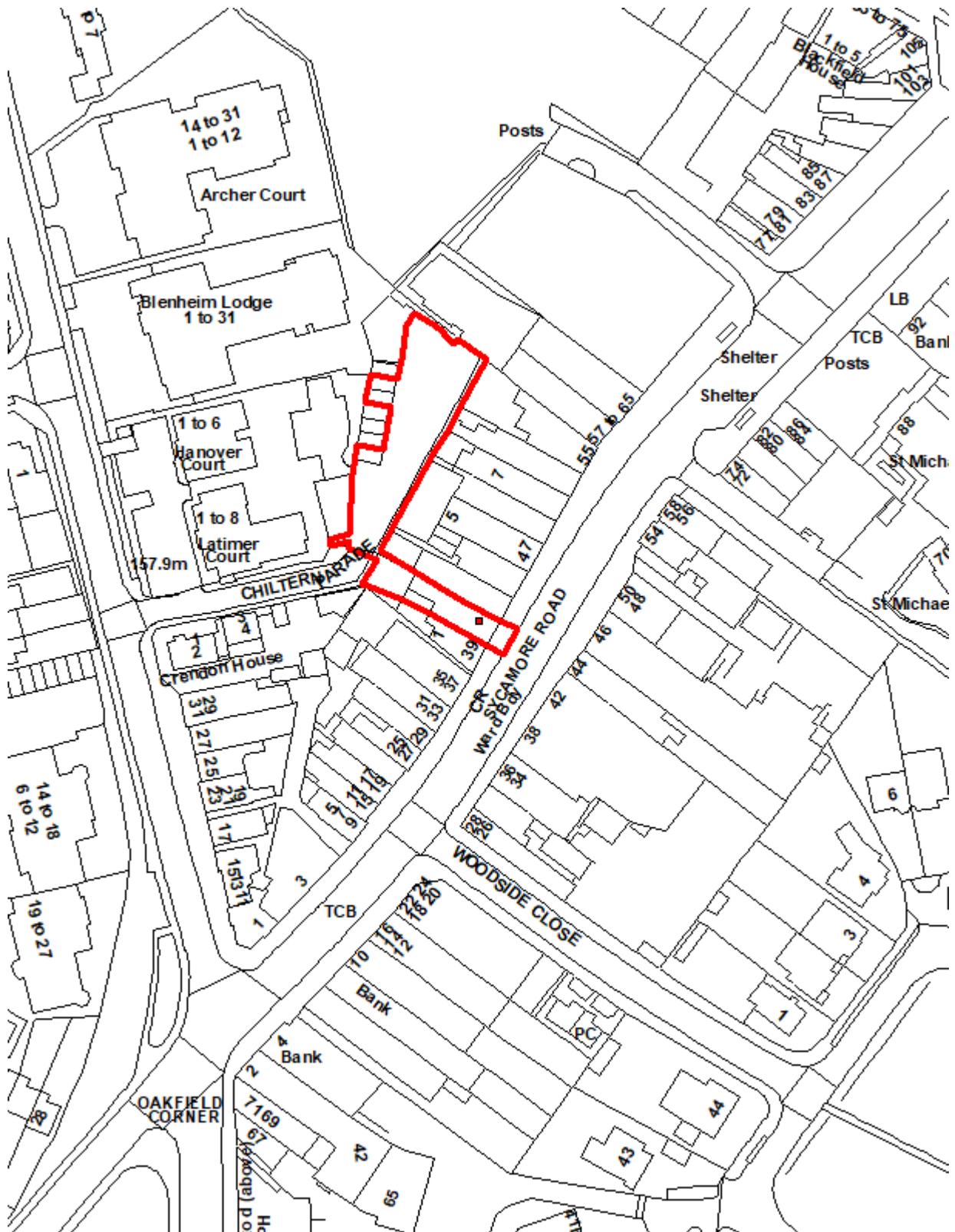
- Harm to local businesses
- Insufficient variety of business on high street
- Preference for shops or boutique type restaurants

- Unsightly appearance
- Impact on character of High Street
- Unsafe vehicular access
- Insufficient parking
- Would result in illegal vehicular parking
- Development would not encourage footfall
- Amersham also has three pizza outlets
- Impact of litter
- Impact of noise and pollution
- Concern regarding vermin
- Detrimental to neighbouring amenity
- Anti-social behaviour
- Concern regarding children's health
- Responsibility to encourage healthy eating
- No consultation with local residents
- Contrary to Core Strategy Policy CS18

One letter of support received which is summarised below:

- Good to see an empty unit filled
- Will bring jobs to the area
- Large car park within walking distance

APPENDIX B: Site Location Plan



Do not scale – this map is indicative only

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