

Recommendation: Conditional approval	
20190966	7 ALLANDALE ROAD
Proposal:	CHANGE OF USE OF GROUND FLOOR FROM ESTATE AGENT (CLASS A2) TO CAFE (CLASS A3)
Applicant:	MRS ROSINDA SINGH
View application and responses	http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190966
Expiry Date:	26 August 2019
PK	WARD: Knighton



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Summary

- At committee because objections have been received from more than 5 addresses;
- 10 objections received raising concerns about residential amenity, character of area, concentration of food establishments and parking;
- The main issues are the principle of development, amenity and privacy, character and design, parking and sustainable drainage;

- Recommended for approval.

The Site

The application relates to a mid-terrace two storey building located within the Allandale Road/Francis Street Local Centre and a Critical Drainage Area. The ground floor is in use as an estate agents and the first floor is in use as a flat. The flat is accessed via a rear alleyway and external staircase.

The adjoining site to the left (no.9) is a ground and first floor shop. To the right hand side (no.5) is a ground and first floor beauty salon.

Adjoining the application site to the rear is an alleyway which provides independent access to the rear of no.'s 1 – 9 Allandale Road. The buildings beyond this face the street scene of Francis Street.

On street parking is subject to a 3 hour limit (and no return within 3 hours) between the hours of 7.30am and 6.00pm Monday to Saturday.

Background

20000870 – Change of use of retail shop (Class A1) to café (Class A3) – granted conditional approval on 10/11/2000. This permission was not implemented

20130750 – Change of use from shop (Class A1) to estate agent (Class A2) – granted conditional approval on 25/06/2019. This permission has been implemented.

The Proposal

Planning permission is sought for a change of use of the ground floor only to a cafe use (Class A3). The proposed hours of use are 09:00 to 17:30 Monday to Saturday and 09:00 to 16:00 on Sundays and Public and Bank Holidays. Waste bins are proposed to be located at the rear of the building.

Policy Considerations

Development plan policies relevant to this application are listed at the end of this report.

Supplementary Planning Documents

Residential Amenity

Consultations

Noise and Pollution Team: No objection subject to conditions

Representations

10 letters of objection have been received raising the following issue:

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- Impact on residential amenity and general amenity in terms of noise, disturbance and smells;
 - Impact on character of the local centre due to the use and litter;
 - Lack of parking; and,
 - Concentration of food outlets.

Consideration

The main issues in this case are: principle of proposed use; residential amenity; character and design; parking; and sustainable drainage.

Principle of Proposed Use

The site is within the Francis Street/Allandale Road local centre as listed at Appendix 5 of the Leicester Core Strategy (2014) and as defined on the proposals map. As such, it constitutes a 'town centre'. The National Planning Policy Framework ("the NPPF") definition of main town centre uses includes offices and restaurants and the proposal would be located in a town centre.

Policy CS11 of the Leicester Core Strategy (2014) states that the Council will safeguard the retail character and function of centres by resisting development that would detract from their vitality and viability. It also states that food and drink uses will be supported in centres to meet demand and to add to vitality and diversity (subject to considerations of residential amenity, the effect on the retail function of the centre and the cumulative impact of these uses).

Saved Policy R03 states that retail development outside of the central shopping core will be confined to the shopping centres shown on the proposals map. Saved Policy R05 states that food and drink uses within the shopping centres shown on the proposals map will be permitted except where a further change from Class A1 use would seriously affect the retail function of the shopping centre (amongst other criteria).

The majority of the non-residential ground floor uses in the local centre of Allandale Road/Francis Street fall within Class A1, and I consider that the overall mix of uses in the local centre as a whole is good. It is recognised that of recent there has been an increase in the number of A3 uses within the local centre; however I am satisfied the introduction of the proposed cafe use at the site, would not detract from the vitality and viability of the local centre.

As a food and drink use the proposal would add to the vitality and diversity of the centre. I acknowledge that objectors have raised concern about the existing extent of such uses in the centre and, as noted above, the potential cumulative impact of such uses is one of the relevant considerations set out in Policy CS11. I do not consider there is a significant over concentration of food and drink uses within the local centre as a whole. Moreover, recently the Government have introduced a greater number of changes of use as part of the prior approvals process. This includes change of use

from A1 and A2 uses to A3 subject to certain criteria. The current proposal could have gone through the prior approval process.

I conclude that the retail character and function of the Francis Street/Allandale Road local centre would not be compromised by the proposed use, and that the proposed use would comply with Policy CS11 of the Leicester Core Strategy (2014) and with the relevant provisions of Policy R03 and R05 of the Local Plan (2006). The principle of the proposed use within this local centre is, therefore, acceptable.

Residential Amenity (neighbouring properties)

Policy CS03 of the Leicester Core Strategy (2014) states that development must respond positively to the surroundings and be appropriate to the local setting and context. Saved Policy PS10 of the Local Plan (2006) includes noise, smell, air pollution, the visual quality of the area including potential litter problems as amenity factors that will be taken into account when determining planning applications.

Saved Policy PS11 states that proposals with potential to pollute by reason of noise, dust, vibration and smell will not be permitted unless the health and amenity of neighbours and the wider environment can be assured. Saved Policy R03 states that retail development within existing centres will be required to demonstrate that the development would not inhibit the use of the upper floors for residential and that arrangements for loading and servicing would not be harmful (amongst other criteria). Saved Policy R05 states that food and drink uses within the shopping centres shown on the proposals map will be permitted except where there would be harm (individually or cumulatively with other Class A3, A4 and A5 uses) to amenity, the applicant has failed to demonstrate that a satisfactory ventilation flue could be provided, or where it involves the use of the upper floors for Class A3, A4 or A5 uses (amongst other criteria).

As noted above, food and drink uses within the centre are currently concentrated in Allandale Road. I am satisfied that the proposed use in this part of the centre would not give rise to unacceptable cumulative amenity impacts of food and drink uses.

Allandale Road, unlike Francis Street has no residential dwellings amongst the commercial ground floor uses. The host property has a flat above, but both adjoining properties have a lawful commercial use on the first floors. The flat above has independent access from the rear and therefore I consider the proposed use would not have a detrimental impact on access to the flat for existing and future occupants. In terms of the impact on outlook, daylight and privacy I consider the proposal would not result in significant harm. The proposed use as a café is considered acceptable in terms of noise and disturbance. As a site within an established local centre a degree of noise is expected.

The proposed use would have the potential to give rise to levels of noise that could transmit through the party walls into the adjoining buildings. I acknowledge that the former office and shop uses may also have generated some degree of noise; however I consider that the potential such impacts of the proposed use is likely to be greater and at more sensitive times (evenings and weekends). Having regard to the observations of the Council's Noise and Pollution Control team, I am satisfied that the

transmission of noise through the party walls could be satisfactorily mitigated with a scheme of sound insulation and by limitation of the impacts of any live or amplified music or voice associated with the proposed use. I consider that it is reasonable and necessary to secure such a scheme of sound insulation, and to control such impacts, as conditions of planning permission. I also consider it reasonable to attach a condition ensuring the outdoor space to the rear is not used as outdoor seating to protect the amenity of the occupants above. The current application does not include the provision of a flue and ventilation system as it is intended to be used as a café; however other uses falling within A3 may require such a ventilation system. I consider it reasonable and necessary to attach a condition to control the installation of a flue on the site. This is to protect the amenity of the occupants of the upper floor.

The proposed use would, by its nature, give rise to disturbance as a result of comings and goings to the property, particularly at more sensitive times (evenings and weekends), as well as from deliveries and servicing. Given the relatively modest size of the site, which would impose its own limit on the scale of the business, I do not consider that the proposal would be likely to give rise to unacceptable residential amenity impacts associated with deliveries and servicing. However, comings and goings by customers at sensitive times could give rise to unacceptable levels of noise and disturbance. I therefore consider that it is reasonable and necessary to control the hours of use (in terms of use by customers) as a condition of planning permission.

The proposed hours of use are daytime hours and I consider it would be inconsistent to attach an hours of use condition which are so narrow. Given the site is in a local centre and to be consistent with other sites, a condition restricting the hours of 07:30-23.00 (daily) is considered to be appropriate. Staff activity outside of the controlled hours would, I consider, not give rise to unacceptable impacts as the acoustic safeguards that would be achieved by sound insulation of the party walls (to be secured by condition) would protect the amenity of nearby residents.

I do not consider that the proposed use as a cafe poses an unacceptable risk of litter from customers. No details of bin storage have been provided. However I am satisfied that there is adequate space within the rear garden for bin storage to take place and I consider it reasonable and necessary, in the interests of residential amenity, to secure details of bin storage as a condition of planning permission.

I conclude that proposal would comply with Policy CS03 of the Leicester Core Strategy (2014) and saved Policies PS10, PS11, R03 and R05 of the Local Plan (2006), and is acceptable in terms of residential amenity.

Character and Appearance

Policy CS03 of the Leicester Core Strategy (2014) states that good quality design is central to the creation of attractive, successful and sustainable places, and that high quality, well designed developments that contribute positively to the character and appearance of the built environment are expected. It goes on to require new development to meet the highest standards of accessibility and inclusion.

Saved Policy PS10 of the Local Plan (2006) includes the ability of the area to assimilate development among the amenity factors that will be taken into account

when determining planning applications. Saved Policy R03 states that retail development within existing centres will be required to demonstrate that the scale and design is sympathetic to the character of the area (amongst other criteria). Saved Policy R05 states that food and drink uses within the shopping centres shown on the proposals map will be permitted except where a shop front is not retained (amongst other criteria).

The proposal is for a change of use only with no alterations to the shop front. As such I consider the development would not alter the appearance of the building within the local centre. The shopfront is currently largely glazed which is consistent with other non-residential units.

The proposal does not include the installation of a flue as it is currently proposed not to be used as a café. However other uses falling within A3 may require a flue. It is considered reasonable and necessary to attach a condition restricting the installation of a flue without planning permission to protect the character and appearance of the site within the local area.

I consider the proposed development would not give rise to any unreasonable impacts in terms of the character of the local centre by virtue of the lack of external alterations. I consider the proposal would accord with Core Strategy policy CS03 and policies R05 and PS10 of the City of Leicester Local Plan.

Access, Parking and Highway Safety

Policy CS14 of the Leicester Core Strategy (2014) states that development should be accessible to all future users, including those with limited mobility, and should be accessible by alternative means of travel to the car.

Saved Policy AM01 of the Local Plan (2006) states that planning permission for development will only be granted where the needs of pedestrians and people with disabilities have been successfully incorporated into the design. Saved Policy AM02 states that planning permission will only be granted where the needs of cyclists have been successfully incorporated into the design. Saved Policy AM11 gives effect to published car parking standards for non-residential development.

Saved Policy R03 states that retail development within existing centres will be required to demonstrate that the traffic generated by the development and loading/servicing arrangements will not have a significant detrimental impact upon parking, traffic problems, pedestrian and highway safety, and that the needs of people with disabilities are provided-for (amongst other criteria). Saved Policy R05 states that food and drink uses within the shopping centres shown on the proposals map will be permitted except where there would be parking and traffic problems (individually or cumulatively with other Class A3, A4 and A5 uses) (amongst other criteria).

Appendix 01 of the Local Plan (2006) sets out guideline maximum standards for car parking. For restaurants outside of the central commercial zone, the Appendix calls for 2 car parking spaces where the floorspace would be up to 100 square metres.

In common with most other properties within this local centre, the application property has no off-street car parking and consequently the proposal would rely on existing on-street space. Based on the former use of the ground floor as an estate agent, a standard maximum requirement for 2 car parking spaces would have been required. This proposal also generates a standard requirement for 2 car parking spaces. As such having regards to the existing and proposed requirements I consider the proposal would not lead to an unacceptable increase in demand for on-street car parking, nor any level of highway harm.

Deliveries and servicing would also need to take place from the public highway, as is the case for most other businesses in this local centre. I do not consider that the continuation of this arrangement in respect of the proposed café use, having regard to its relatively modest scale, would be unacceptable.

There is no direct access into the rear area from the street scene of Allandale Road; as it such requiring cycle parking at the rear of the rear would be impractical to be used.

The lack of parking for residents has been raised by a number of objectors. The application cannot be a mechanism for mediating existing parking issues in the local area.

I conclude that proposal would comply with Policy CS14 of the Leicester Core Strategy (2014) and saved Policies AM01, AM02, AM11, R03 and R05 of the Local Plan (2006), and is acceptable in terms of access, parking and highway safety.

Sustainable Drainage

Policy CS02 of the Leicester Core Strategy (2014) states that all development should aim to limit surface water run-off by attenuation within the site, giving priority to the use of sustainable drainage techniques.

The site is within a critical drainage area indicating that it has the potential to contribute adversely to surface water. There are no extensions to the building proposed and no alterations to the rear of the site. I consider the requirement of a sustainable drainage scheme would be onerous on the applicant given the lack of additional built form.

I conclude that the proposal would comply with Policy CS02 of the Core Strategy (2014) and is acceptable in terms of sustainable drainage.

Conclusion

The proposal is acceptable in principle as it would not detract from the vitality and viability of the local centre. There would be no unreasonable impacts upon residential amenity, the character and appearance of the area, nor in terms of access, parking and sustainable drainage. I recommend that the application be APPROVED subject to the following conditions:

CONDITIONS

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1. The development shall be begun within three years from the date of this permission. (To comply with Section 91 of the Town & Country Planning Act 1990.)
 2. The use shall not commence until an insulation scheme to prevent the transmission of noise to adjoining residential properties has been carried out in accordance with details which shall first have been submitted to and approved by the City Council as local planning authority. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan, this is a PRE-COMMENCEMENT condition).
 3. The use shall not be carried on outside the hours of 07.30-23.00 daily. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
 4. There shall be no live or amplified music or voice played which would be detrimental to the amenities of occupiers of nearby properties. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
 5. The rear outdoor space shall not be used as an outside seating area or used for any entertainment purposes. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
 6. Only cold food, or food cooked by microwaves shall be prepared and/or served on the premises. (In the interests of the amenities of nearby occupiers, and in accordance with policies PS10 and PS11 of the City of Leicester Local Plan.)
 7. No equipment/machinery shall be installed or operated nor shall any processes be undertaken which are detrimental to the amenity of the area by reason of noise, vibration, smell, fumes and smoke. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
 8. This consent shall relate solely to the submitted plans received by the City Council as local planning authority on 01/07/2019, unless otherwise submitted to and approved by the City Council as local planning authority. (For the avoidance of doubt.)

NOTES FOR APPLICANT

1. Light food offering should be cold or microwavable food, other hot/cooked food would require a ventilation system. The applicant is advised no ventilation flue should be installed until agreed in writing with the Council.
2. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against

all material planning considerations, including planning policies and representations that may have been received and subsequently determining to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2019.

Policies relating to this recommendation

- 2006_AM01 Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.
- 2006_AM02 Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.
- 2006_AM11 Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
- 2006_BE22 Planning permission for development that consists of, or includes, external lighting will be permitted where the City Council is satisfied that it meets certain criteria.
- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2006_PS11 Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.
- 2006_R03 Retail development outside the Central Shopping Core will be confined to the existing and proposed shopping centres.
- 2006_R05 Proposals for the use of premises within existing shopping centres for food and drink purposes (Use Classes A3, A4 and A5) will be permitted subject to criteria.
- 2014_CS02 Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
- 2014_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2014_CS11 The Council supports a hierarchy of retail centres in Leicester. The policy sets out measures to protect and enhance retail centres as the most sustainable location for retail development.
- 2014_CS14 The Council will seek to ensure that new development is easily accessible to all future users including by alternative means of travel to the car; and will aim to develop and maintain a Transport Network that will maximise accessibility, manage congestion and air quality, and accommodate the impacts of new development.
- 2014_CS15 To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.