

Recommendation: Conditional approval	
20192113	166-166A Evington Road
Proposal:	Change of use from betting shop (Sui Generis) to two A3 units (Class A3); alterations to shop front; part demolition of existing rear outbuilding; construction of single and two storey extension at rear; alterations (amended plans received 29/01/2020)
Applicant:	Mr Yaseen Patel
View application and responses	https://planning.leicester.gov.uk/Planning/Display/20192113
Expiry Date:	19 February 2020
PK	WARD: Stoneygate



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Summary

- Reported because more than 5 objections have been received;
- A total of 7 objections received raising concerns about number of hot food take-aways on Evington Road, impact character of area, waste, parking, noise, smells and public health concerns;
- The main issues are the principle of development, impact on residential amenity, highways, character and design, waste;
- Recommended for approval.

The Site

The application site is a mid-terrace property located within the Evington Road shopping centre. The site adjoins retail and commercial uses to either side and residential to the rear. The site is in a critical drainage area.

Background

The previous use of the site was offices in the 1990s. It is unclear when the current betting shop use on the ground floor commenced.

The Proposal

The proposal is for the change of use from a betting shop use to two restaurants. No opening hours are given in the application. It is proposed to demolish part of an outbuilding at rear, alter the shop front to accommodate the two restaurants and construct a single storey extension and a two storey extension, the latter would provide a staircase to the upper floor which would remain in office use as existing.

Two ventilation flues are proposed, which would be internal and would exit the building from the rear roof slope. They would terminate 1 metre above the ridge.

Amended plans were submitted to ensure the flue terminated 1 metres above the ridge and also to internalise the flue. A further amended plan was received to enclose the staircase at the rear.

Policy Considerations

National Planning Policy Framework (NPPF)

Paragraph 2 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 11 contains a presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with the development plan without delay.

Paragraph 85 of the NPPF states that planning policies and decision should support the role that town centres play at the heart of local communities by taking a positive approach to their growth, management and adaptation.

Paragraph 109 advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Paragraph 127 sets out criteria for assessing planning applications which includes issues such as the long term functionality of development proposals; visual impacts; the ability of development to relate to local character; creation of a sense of place using various design tools such as building types and materials; optimising the potential of development sites; and, designing safe, secure and inclusive developments with a high standard of amenity for existing and future users.

Paragraph 130 states that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.

When determining planning applications for development within flood risk areas paragraph 163 requires local planning authorities to ensure that flood risk is not increased elsewhere.

Development Plan Policies

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

Supplementary Planning Documents

Appendix 1 of the City of Leicester Local Plan (Parking standards)

Consultations

Noise and Pollution Control – No objection to the amended plans

Representations

7 letters of objection have been received by 6 City addresses raising the following concerns:

- Concentration of hot food takeaways;
- Waste, odour and noise from late night opening hours;
- Inconsiderate parking from people visiting the food outlets in the area and limited parking availability;
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- Precedent for future loss of more retail stores;

Consideration

Principle of development

The site is located within the existing Evington 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 Evington Road fall within Class A1 and A2, 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/A5 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, it is recognised that the site has been empty for some time and bring the site into use would be beneficial for the local centre.

I conclude that the retail character and function of the Evington 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

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).

The property and the adjoining properties are in commercial use at the ground floor. There are residential properties to the rear of the application site on Sawley Street and

Rowsley Street. As the proposal is for a restaurant a ventilation flue is required. The proposed development includes the provision of an internal flue which would exit the building from the roof of the building in the form of two flue's. The flues would be one metre above the ridge of the property and therefore Pollution Officers are satisfied that the ventilation flue proposed would allow odours from cooking to disperse sufficiently.

No hours of use have been indicated by the applicant; however as the site is in a local centre I consider a standard condition can be attached.

The proposed single storey rear extension would be located wholly within the rear yard and the proposed staircase has now been enclosed to minimise any concerns for the amenity of the occupiers at the rear. Subject to the amended plans and conditions I consider the proposed development would not result in detriment to the amenity of nearby residents. 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.

Highways

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.

The site offers no off-street car parking for the customers or staff which is similar to other premises on Evington Road. The site location is in an existing shopping centre which is served by good public transport links. I consider that the amount of traffic generated will be small and that levels of late night traffic noise, associated activity noise and traffic levels would not be significant.

Deliveries and servicing would also need to take place from the public highway to the front or from adjacent roads, as is the case for most other businesses in this local centre. I consider that the continuation of this arrangement in respect of the proposed restaurant, having regard to its relatively modest scale, is acceptable. I appreciate that a number of residents have raised concerns regarding parking and traffic; however the site is in a local and centre and this is the prevailing situation.

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.

Character and Design

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.

The proposed ventilation flue would be located within the roof and would not be prominent. The extensions would be situated within the rear yard which cannot be seen

from the public realm. The application form indicates this would be brick built to match the existing chimney on site. I consider this to be an appropriate response which can be adequately conditioned.

The proposal would bring the site back into use and therefore I consider this would have a positive impact on the appearance of the site and wider street scene. I consider it reasonable and necessary to advise that this permission does not include advertisement consent for which separate permission is required.

I consider the proposal would accord with Core Strategy policy CS03 and policies R05 and PS10 of the City of Leicester Local Plan.

Waste storage and collection

Bin storage has been provided to the rear of the property within the application site with access to the road via a side passageway. This is similar to other units within the local centre and I consider this to be a suitable arrangement.

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

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. No noise or vibration from the operation of the local exhaust ventilation system detrimental to amenity shall be perceptible in any adjoining property. (In the interests of the amenities of nearby occupiers, and in accordance with policies PS10 and PS11 of the City of Leicester Local Plan.)
3. The new walls and roof shall be constructed in materials to match those existing. (In the interests of visual amenity, and in accordance with Core Strategy policy CS03.)
4. The use shall not be carried on outside the hours of 07:30 to 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.)
5. 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.)

6. No 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, smoke, soot, ash, dust or grit. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
7. This consent shall relate solely to the amended plans received by the City Council as local planning authority on 29/01/2020. (For the avoidance of doubt.)

NOTES FOR APPLICANT

1. No consent is granted or implied for the advertisement shown on the submitted plans, for which a separate application may be necessary.
2. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process.
The decision 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 is considered to be a positive outcome of these discussions.

Policies relating to this recommendation

- 2006_AM11 Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 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_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.
- 2006_R03 Retail development outside the Central Shopping Core will be confined to the existing and proposed shopping centres.