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| Recommendation: Conditional approval | |
| 20192220 | 130 Evington Road |
| Proposal: | Change of use from bank (Class A2) to restaurant/ hot food take away (Class A3/A5); construction of chimney to facilitate internal ventilation flue |
| Applicant: | Mr SUMEET SINGH |
| View application and responses | https://planning.leicester.gov.uk/Planning/Display/20192220 |
| Expiry Date: | 19 February 2020 |
| PK | WARD: Stoneygate |



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Summary

- Application reported as more than 6 objections have been received from City addresses;
- 12 Objections on grounds of the concentration of hot food takeaways, traffic, unreasonable parking, residential amenity, waste, odour and noise;
- The main issues in this case are principle of development, impact on residential amenity, highways, character and design, waste;
- The application is recommended for approval.

The Site

The application relates to a two storey terraced property within the Evington Road District 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

20181465 – change of use of bank (Class A2) to restaurant/hot food takeaway (Classes A3/A5; ventilation flue at rear; alterations (amended plans received 13/11/2018) – Refused for the following reasons:

1. The proposed ventilation flue due to its design, location and inadequate height would not adequately disperse cooking fumes to the detriment of the occupiers of nearby properties. The proposal is therefore contrary to policies PS10, PS11 and R05 in the City of Leicester Local Plan.
2. The proposed ventilation flue due to its design and location on the external wall of the property to the rear would cause detriment to the visual amenity of the occupiers of nearby properties. The proposal is therefore contrary to policies PS10, PS11 and R05 in the City of Leicester Local Plan.

The Proposal

The proposal is for the change of use from a bank (class A2) to a restaurant/hot food takeaway (classes A3/A5). The proposed opening hours are 11:00 to 23:00 Monday to Saturday and 11:00 to 22:00 on Sundays and Bank Holidays.

It is proposed to construct an additional chimney on site with a height 1 metre above the ridge of the building with a width of 1 metre to accommodate an internal ventilation flue.

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

Representations

13 letters of objection have been received from 11 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;
- People travelling from outside of Leicester to come to Evington Road;
- Loss of retail and lack of diversity in the types of stores on Evington Road;
- Health and obesity;
- Precedent for future loss of more retail stores;
- Surveys conducted by residents of the number of food takeaways on Evington Road shows 1 out of every 3 units.

One letter of support has been received stating that Evington Road is being known as the food area of Leicester.

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 restaurants.

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 there has been an increase in the number of A3/A5 uses within the local centre over a number of years; 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.

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 on the ground floor. There are residential properties to the rear of the application site on Glossop Street and East Park Road. As the proposal is for a restaurant/hot food takeaway a ventilation flue is required. The proposed development includes the provision of an internal flue which would exit the building from a new chimney to be constructed on the roof of the building. The flue 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.

The hours of use given by the applicant are 1100 till 2300 Monday to Saturday and 11:00 to 22:00 on Sundays and Bank Holidays. Given the location hours of use until 2300 hours are acceptable.

There are no other alterations or extensions to the building that could result in detriment to the residential amenity of residents to the rear. As such I consider the proposed development, subject to conditions, 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 close which is served by good public transport links. I consider that the amount of additional traffic generated will be relatively small and as the site is located within existing shopping centre on a main road, levels of late night traffic noise, associated activity noise are not 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 do not consider that the continuation of this arrangement in respect of the proposed restaurant/hot food takeaway use, having regard to its relatively modest scale, would be unacceptable. I appreciate that a number of residents have raised concerns regarding parking and traffic; however the site is in a local and centre and no matter what the use the site would operate with no parking availability.

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 a new chimney. 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.

Other Matters

Turning to other comments raised from objectors not otherwise dealt with in the above report:

- The current application does not set a precedent for future changes of use, each application is assessed on its own merits
- This application is for a change of use of the site and planning legislation does not require details of what type of food would be served. It is noted that there are health implications from particular types of hot food takeaways but the type of food served at any food outlet is not a material planning consideration.

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. The external elevations shall be constructed in facing bricks to match those existing. (In the interests of visual amenity, and in accordance with Core Strategy policy CS03.)
3. 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.)
4. 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.)
5. 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.)
6. This consent shall relate solely to the submitted plans received by the City Council as local planning authority on 04/12/2019, unless otherwise submitted to and approved by the City Council as local planning authority. (For the avoidance of doubt.)

NOTES FOR APPLICANT

1. 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.
2. No consent is granted or implied for the advertisement, for which a separate application may be necessary.

Policies relating to this recommendation

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_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'.