



# Epping Forest District Council



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Application Number:	EPF/0627/22
Site Name:	46 Pyrles Lane Loughton Essex IG10 2NN

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# OFFICER REPORT

**Application Ref:** EPF/0627/22  
**Application Type:** Change of use  
**Applicant:** Mr. Yasin Yaman  
**Case Officer:** Muhammad Rahman  
**Site Address:** 46 Pyrles Lane  
Loughton  
Essex  
IG10 2NN

**Proposal:** Change of use from vacant shop (Class E) to takeaway (Sui Generis) with installation of an extractor flue to the rear and new shopfront.

**Ward:** Loughton Fairmead  
**Parish:** Loughton  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000Nyn8>  
**Recommendation:** Approve with Conditions

*This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council and at least one non-councillor resident, on planning grounds material to the application (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).*

## Site and Surroundings

The site comprises of a commercial unit within a shopping parade including residential flats above. It is located within the built-up area of Loughton and sits on the east side of Pyrles Lane. To the rear lies a yard with a small garage. It is not within a conservation area nor is it a listed building.

Too add, Pyrles Lane is defined as a Local Town Centre within the Town Centre Hierarchy in the adopted LP, however, it is not part of the Town Centre Hierarchy within the LPSV.

The site was most recently used as a Martin McCall convenience and has been vacant since 29 May 2020.

## Proposal

The proposal is for change of use from vacant shop (Class E) to takeaway (Sui Generis) with installation of an extractor flue to the rear and new shopfront.

The agent has clarified the opening hours as it differs from that stated on the application form. As such, the current proposed opening hours are

10am –10pm on Sundays to Thursdays; and  
10am – 11pm on Fridays & Saturdays.

The proposed employees are 3 Full-time staff & 2 part time.

The intended end user is known and the unit would be offering Turkish Food (Kebabs etc.)

## Relevant Planning History

EPF/0517/21 - Change of use from A1 to A5 (Indian Takeaway) or Sui Generis (new user classes) – Refused on lack of information re the Kitchen extraction system.

EPF/0746/22 - New externally illuminated sign - Approved

## Development Plan Context

### *Local Plan and Alterations 1998 & 2006 (LP)*

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006)

The following policies within the current Development Plan are considered to be of relevance to this application:

CP7	Urban Form and Quality
TC1	Town Centre Hierarchy
TC6	Local Centres and Corner and Village Shops
DBE9	Loss of Amenity
ST4	Road Safety
ST6	Vehicle Parking
RP5A	Adverse Environmental Impacts

### *National Planning Policy Framework 2021 (Framework)*

The Framework is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

Paragraph	81
Paragraph	86
Paragraph	130

## *Epping Forest District Local Plan Submission Version 2017 (LPSV)*

Although the LPSV does not currently form part of the statutory development plan for the district, on 14<sup>th</sup> December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019. On the 2<sup>nd</sup> August, the appointed inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

Following the Examination Hearing Sessions for the emerging Local Plan, the Council has prepared a number of changes, known as **Main Modifications**, to the Epping Forest District Local Plan Submission Version (2017) to address issues of soundness and/or legal compliance identified by the Inspector. These are put forward without prejudice to the Inspector's final conclusions on the Plan.

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional Main Modifications, the **highest weight** should be afforded to LPSV policies in accordance with paragraph 48 of Framework. The following policies below are relevant to the determination of this application;

DM9	High Quality Design
E2	Centre Hierarchy/Retail Policy
P2	Loughton

### **Summary of Representations**

Number of neighbours consulted: 18. 1 response(s) received

Site notice posted: No, not required

62 PYRLES LANE – Objections - Summarised as: Concerns regarding noise, litter, odour and general disturbances.

LOUGHTON TOWN COUNCIL – The Committee OBJECTED to this application on the grounds that the proposed extractor system would not protect the amenity of the residents living in the properties above this site and would cause noise and smells for the residents.

### **Planning Considerations**

The main issue for consideration in this case are;

- a) The principle of the proposal in the Town Centre including whether it would maintain the vitality and viability of the Town Centre;

- b) The impact on the living conditions of neighbouring amenities; and
- c) The Impact on the Integrity of the Epping Forest Special Area of Conservation.

### *Vitality & Viability*

The government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Significant weight should be placed on the need to support economic growth through the planning system. The NPPF sets out the core planning principles which should underpin decisions and notes that planning should, amongst other matters, proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the development needs of an area and respond positively to wider opportunities for growth.

The unit has been vacant since May 2020 and the loss of the convenience store would not be detrimental to the parade given that there is an existing convenience store (Nisa Local) several units down which provides a similar service on a far larger scale. As such, the proposal would generate footfall, maintain the diversity, vitality and viability of the local town centre, and complement existing uses within the Parade.

Concerns have been raised regarding competition within the Parade, however, in the interest of clarity, it is not the role of the Planning Regime to restrict competition. As such, this matter is attributed no weight.

There is ample parking space to the front of the parade and a designated car park at the end of the parade. Also, any refuse collection & servicing would be carried out via the rear service road. So, there would be no parking issues.

No issues are raised from the proposed shopfront and the advertisements have been approved under EPF/0746/22.

Furthermore, it is considered that the proposed opening hours are acceptable and will ensure that there is an active frontage that contributes to the daytime and night-time economy, thereby enhancing the vitality and viability of the local Town Centre, in line with Paragraph 86 of the Framework. The current fish & chip shop operates from 11:30am – 10pm daily (Although it is closed between 2pm – 4:30pm). If Members consider the opening hours for Fridays & Saturdays to be unacceptable, then it can be modified to an earlier time i.e. 10:30pm or 10pm.

### *Living conditions of neighbours*

The unit sits below residential three storeys of residential flats and opposite residential dwellings. As such, particular consideration must be given to the living conditions of the occupiers of these dwellings given the nature of the proposed use which may give rise to issues regarding noise, odour, parking and general disturbance.

On this note, the Council's Environmental Health Team are satisfied with the proposed kitchen extraction & ventilation system as it will not have a harmful impact to the living conditions of neighbouring properties from odour, noise and fumes, nor would there be any material visual impact from the proposed flue.

With regards to litter, anti-social behaviour & general disturbance concerns the agent has provided the following management strategy below, which has also been secured by a condition. The strategy is as follows;

The proposed takeaway employees would be trained on 'Crime Prevention

Qualifications & Training'. When the unit is open there would be at least one employee who had this training to ensure the crime, disorder, public safety and nuisance is contained and should any incident happen the responsible authority would be notified.

In line with the Secured by Design advice:

1. The premises would be checked regularly, at least once a week to see if there are any obvious signs of prevent the spiral of decline. This includes removing litter and graffiti as soon as possible and making sure that landscaping is cut back to assist with surveillance from passers-by and the unit's CCTV system. Flammable and combustible materials and substances would be stored in a secure, lockable container, cage or room. Bins would be securely stored away from the building to prevent arson.
2. There would be a monitored intruder system to deter burglary. The system would be regularly maintained, in good working order and remotely monitored for a police response.
3. There would be a CCTV which is regularly maintained, in good working order covering most vulnerable areas, including doors and windows.
4. Doors and windows would be in good working order, free from rot or damage and have good quality locks.
5. All easily accessible glazing would be laminated to resist forced entry.
6. Roller shutters and grilles would be added as an additional security measure if needed.
7. There would be internal lighting operated by detection devices and would be automatically switch lights on where movement is detected.
8. The valuables, assets and stocks would be either removed from the premises or stored in a secure, lockable container, cage or room and the keys stored in a secure key cabinet or removed entirely.
9. Once the planning permission is approved a Waste Collection Agreement will be carried out with a local waste authority and an additional agreement will be made for the collection of used & waste Cooking Oil also with a local company.
10. There would be regular sweeps along the terrace and pavement to ensure there would be no litter from the premises.
11. Any drivers to come in and leave the premises would be reminded to enter and leave the premises in a quiet manner and although it is not the applicant's intention to make deliveries from the rear yard, if the Local Planning Authority requires, this can also be arranged.

### *Epping Forest Special Area of Conservation (EFSAC)*

A significant proportion of the Epping Forest Special Area of Conservation (the EFSAC) lies within the Epping Forest District Council administrative area. The Council has a duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) to assess whether the development would have an adverse effect on the integrity of the EFSAC. In doing so the assessment is required to be undertaken having considered the development proposal both alone and in combination with other Plans and Projects, including with development proposed within the Epping Forest Local Plan Submission Version (LPSV)

The Council published a Habitats Regulations Assessment in January 2019 (the HRA 2019) to support the examination of the LPSV. The screening stage of the HRA 2019 concludes that there are two Pathways of Impact whereby development within Epping Forest District is likely to result in significant effects on the EFSAC. The Pathways of Impact are disturbance from recreational activities arising from new residents (residential development only) and atmospheric pollution as a result of increased traffic using roads through the EFSAC (all development).

Whilst it is noted that the independent Inspector appointed to examine the LPSV, in her letter dated 2 August 2019, raised some concerns regarding the robustness of parts of the methodology underpinning the appropriate assessment HRA 2019, no issues were identified in relating to the screening of the LPSV or the Pathways of Impact identified. Consequently, the Council, as competent authority under the Habitats Regulations, is satisfied that the Pathways of Impact to be assessed in relation to the likely

significant effects of development on the EFSAC alone and in-combination with other plans and projects are:

1. Recreation activities arising from new residents (recreational pressures); and
2. Atmospheric pollution as a result of increased traffic using roads through the EFSAC

As this application is for non-residential development it has been screened in relation to the atmospheric pollution Pathway of Impact only and concludes as follows;

- The development has the potential to result in a net increase in traffic using roads through the EFSAC and therefore could have a likely significant effect on the EFSAC in relation to the atmospheric pollution impact pathway.

Having undertaken this first stage screening assessment and reached this conclusion there is a requirement to undertake an 'Appropriate Assessment' of the application proposal in relation to the atmospheric pollution Pathway of Impact.

### **Stage 2: 'Appropriate Assessment'**

The application proposal has the potential to result in a net increase in traffic using roads through the EFSAC. However, the Council, through the development of an Interim Air Pollution Mitigation Strategy (IAPMS), has provided a strategic, district wide approach to mitigating atmospheric pollution impacts on the EFSAC through the imposition of planning conditions and securing of financial contributions for the implementation of strategic mitigation measures and monitoring activities. Consequently, this application can be assessed within the context of the IAMPS. In doing so the Council has sought to take a proportionate approach to the securing of such financial contributions, and currently only seeks these from the two strategic employment allocations at Dowding Way and North Weald Airfield. The application will, however, be subject to planning conditions to secure site-specific measures as identified in the IAMPS.

### **Conclusion**

In broad planning terms, the proposal seeks to provide an active frontage, whilst supporting the Framework's objectives of building a strong, competitive economy, and ensuring the vitality and viability of the Town Centre.

For the reasons set out above having regard to all the matters raised, it is recommended that conditional planning permission be granted.

**If you wish to discuss the contents of this report please contact the case officer by 2pm on the day of the meeting at the latest.**

**Case Officer | Muhammad Rahman | [mrahman@eppingforestdc.gov.uk](mailto:mrahman@eppingforestdc.gov.uk)**

**If no contact can be made please email:**

**[contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)**

**Conditions: (9)**

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: Location Plan, PL-0203-EBP, PL-0203-PBP, PL-0405-EPFP, PL-0405-EPES, and PL-0803-EPES.

Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.

- 3 Prior to first use of the development hereby permitted, details of foul drainage for the kitchen shall be submitted to and approved by the Local Authority, in writing. Drains serving the kitchens in the development shall be fitted with a grease separator, as detailed in the Building Regulations 2000, Approved Document H (Drainage and waste disposal), to comply with prEN 1825-1 and designed in accordance with prEN 1825-2 (Installations for separation of grease) or other effective means of grease removal. The approved drainage shall be retained and maintained while the site is in use.

Reason: To protect the environment, human health, surface and groundwater in accordance with policies RP5A & DBE9 of the adopted Local Plan 1998 & 2006, policies DM9 & DM21 of the Local Plan Submission Version 2017, and the NPPF.

- 4 The extract, ventilation and odour details hereby approved, shall be installed before the use hereby permitted commences and so retained. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions for the lifetime of the development and operated at all times when cooking is being carried out.

Reason: To safeguard the amenity of adjoining properties and to protect the general environment from the impact of cooking smells, odours and noise in accordance with policies CP7, DBE9 & RP5A of the adopted Local Plan 1998 & 2006, policies DM9 & DM21 of the Local Plan Submission Version 2017, and the NPPF.

- 5 The use hereby permitted shall only be open to customers between the hours of 10am to 10pm on Sundays to Thursdays and 10am to 11pm on Fridays & Saturdays.

Reason: In order to minimise disturbance to local residents, in accordance with policies RP5A and DBE9 of the adopted Local Plan and Alterations 1998 & 2006, policy DM21 of the Local Plan Submission Version 2017, and the NPPF.

- 6 No deliveries shall be taken at or dispatched from the site outside the hours of 10am to 6pm on Mondays to Fridays, 10am to 1pm on Saturdays, nor at any time on Sundays, Bank or Public Holidays.



Reason: In order to minimise disturbance to local residents, in accordance with policies RP5A and DBE9 of the adopted Local Plan 1998 & 2006, Policy DM21 of the Local Plan Submission Version 2017, and the NPPF.

- 7 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified on the approved plans.

Reason: To ensure a satisfactory appearance in the interests of visual amenity of the area, in accordance with policy DBE10 [or DBE1 if structure is not a residential extension] of the adopted Local Plan 1998 & 2006, and Policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

- 8 The use hereby permitted shall be operated in accordance with the Management Strategy by ADA Group (dated 3 May 2022).

Reason: In order to minimise disturbance to local residents, in accordance with policies RP5A and DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 and DM21 of the Local Plan Submission Version 2017, and the NPPF 2019.

- 9 The rating level of noise (as defined by BS4142:2014) emitted from any mechanical equipment installed must not exceed the prevailing background noise level. The measurement position and assessment shall be made according to BS4142:2014 +A1:2014.

Reason: To maintain reasonable levels of protection for the occupiers of the development from external noise and in accordance with policies RP5A and DBE9 of the adopted Local Plan and Alterations and policies DM9 and DM21 of the Local Plan Submission Version 2017, and the NPPF.

**Informatives: (1)**

- 10 The 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 and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.