

**Report to District Development Control
Committee**

Date of meeting: 26 June 2013



**Epping Forest
District Council**

Subject: Planning Application EPF/2190/12 – 26 Fyfield Road, Ongar - change of use of the premises from A1 to A3 and A5 with extension flue and changes to shop front.

Officer contact for further information: D Duffin

Committee Secretary: S Hill Ext 4249

Recommendation:

That the application is refused permission for the following reasons:

1. By reason of the emission of cooking odours and the site's proximity to neighbouring dwellings, the proposed use would cause excessive harm to the living conditions of local residents. Planning conditions could not adequately mitigate the harm; therefore the proposal is contrary to policies DBE9 and RP5A of the Adopted Local Plan and Alterations, which are consistent with the National Planning Policy Framework.

2. The proposed use would be likely to generate additional traffic and on-street parking in the locality that is far in excess of that likely to be generated by the lawful use of the shop premises. That would be harmful to the interests of highway safety and the amenities of the locality contrary to Policy ST4 of the Adopted Local Plan and Alterations, which are consistent with the National Planning Policy Framework.

3. The application fails to demonstrate there is no market demand for a retail use on the site and consequently would be likely to undermine the vitality and viability of the local centre within which the site is situated. Accordingly the proposal is contrary to policy TC6 of the Adopted Local Plan and Alterations, which is consistent with the National Planning Policy Framework.

Report

1. This application has been referred by the Area Plans Sub Committee East with a recommendation to refuse consent contrary to the Officer recommendation, as detailed in the attached report, that consent be granted subject to conditions.

Planning Issues

2. The debate at the sub committee meeting on 22 May 2013 highlighted concerns that Members had in relation to this proposal. Firstly, that the proposed development would have a significant impact on the amenity of local residents. It was not considered that this could adequately be dealt with by a planning condition agreeing the details of extraction equipment. Officers, following

consultation with the Environmental Health section, had formed the view that any impact on neighbour amenity would be to an acceptable level. The extraction equipment would be located a reasonable distance from residential properties and it was considered that a well designed, modern system which could be agreed by condition would mitigate any harm. The condition attached to the decision would be negatively worded such that the use could not begin until a suitable system was in place and maintained in good working order for the duration of the use.

3. Further concern was expressed that the use was likely to generate excessive traffic movements to and from the site which would impact on highway safety and amenity. Essex County Council Highways have no objection to the proposed development and Officers were satisfied that that parking would be no greater than the existing lawful A1 use of the site. There is limited parking outside the site and no parking restrictions in neighbouring streets.
4. Members were also of the view that a marketing strategy required by Policy TP6 "Local Centres" to ascertain if the unit would be taken on by an A1 use should have been carried out. The attached report outlines the view adopted by Officers. This was generally that the aim of policy TC6 would not be offended by the loss of this unit to other uses. The aim of the policy is to ensure a network of small convenience stores throughout the district providing everyday provisions for local residents. The adjacent unit occupied by the retail chain Nisa appears to be meeting this need on the Fyfield Road. Officers did note the lack of a robust marketing exercise in this case. However it was considered that the retail nature of the adjoining property allowed scope for alternative uses at No26. The sporadic nature of occupation of the unit down the years suggested another A1 unit would struggle at this location. Officers were also mindful of the current economic downturn and the Government drive to ensure that Local Authorities approved appropriate development without delay. It was considered that this development was economically, socially and environmentally sustainable and as such complied with the aims enshrined in nationally adopted policy. Officers expressed a view that a vacant unit was essentially a loss of a local resource and as the proposal was acceptable in planning terms, there appeared to be no sound reasons to withhold consent. Appropriate conditions could adequately mitigate any harm it was reasoned.
5. In the period since the drafting of the committee report, changes to the General Permitted Development Order which came into force on 30/05/13 have addressed the issue of changing use between the classes. On units up to 150 sq metres it is now possible to change a use from A1 to A3 (Class D). This use would not qualify as it includes an A5 element, but could be modified to qualify. There are a number of minor stipulations to meet but it is clear that the thrust of this initiative is the bringing of empty, underused premises back to beneficial use. This, in Officers opinion, adds further weight to the argument that the use should be granted consent. It is clear that an A3 use, perhaps within ancillary A5 element, could proceed at this site under the new changes to the GDPO. The Government are keen to ensure that appropriate development is brought forward without delay and there appears to be a viable fallback in this case.

Conclusions

6. Although the sub committee have recommended refusal of the scheme, it has been reported to this committee for a decision. Officers maintain that there are sound reasons for approval as set out in the original report attached.

7. Should Members be minded to Grant Consent it is recommended that the following conditions be attached.
 1. The development hereby permitted must not be begun later than the expiration of three years beginning with the date of this notice.
 2. The use hereby permitted shall not be open to customers outside the hours of 09.00 to 22.00 Monday to Saturday and 11.00 to 21.00 Sundays and Public/Bank Holidays.
 3. The use hereby approved shall not commence until a scheme providing for the adequate storage of refuse from the use has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out as approved and maintained as long as the use continues unless otherwise agreed in writing by the Local Planning Authority.
 4. Details of foul and surface water disposal shall be submitted to and approved by the Local Planning Authority prior to the unit being brought into use and the development shall be implemented in accordance with such agreed details.
 5. Equipment shall be installed to suppress and disperse cooking/food preparation fumes and smell to a minimum. The equipment shall be effectively operated and maintained for as long as the use continues. Details of the equipment shall be submitted to, and approved, by the Local Planning Authority prior to the commencement of the use.
 6. The rating level of noise (as defined by BS4142: 1997) emitted from the extraction system agreed pursuant to Condition 5 shall not exceed 5dB (A) above the prevailing background noise level. The measurement position and assessment shall be made according to BS4142: 1997.