

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	3 FEBRUARY 2021
TITLE OF REPORT:	201996 - PROPOSED CHANGE OF USE OF LAND FOR THE PERMANENT SITING OF AND THE SALE OF HOT TAKEAWAY FOOD FROM A FOOD TRAILER AT 8 BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7JE For: Mr D Marin, 8 Belmont Road, Hereford, HR2 7JE
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201996&search-term=201996
Reason Application submitted to Committee – Redirection - Public Interest	

Date Received: 25 June 2020

**Ward: Hinton &
Hunderton**

Grid Ref: 350692,239221

Expiry Date: 25 October 2020

Local Member: Councillor Kevin Tillett

1. Site Description and Proposal

- 1.1 Number 8 Belmont Road is situated to the north west of the A49 junction with the A465 (Asda Roundabout). The property is currently utilised as a retail food store to the front of the property, a flat above and yard to the rear. The proposed location of the hot food take away is in the rear yard with access immediately off the slip road to the Asda supermarket.
- 1.2 The proposal is for a change of use of land for the permanent siting of and the sale of hot takeaway food from a food trailer. With proposed trading hours of 12:00pm to 22:00pm

Site Plan - site outlined in red



2. Policies

Herefordshire Local Plan – Core Strategy

2.1 The following policies are considered relevant to this application:

LD1	–	Landscape and Townscape
SD1	–	Sustainable Design and Energy Efficiency
MT1	–	Traffic Management Highway Safety & Active Travel
SD3	–	Sustainable water management and water resources

2.2 The Hereford Area Plan is at drafting stage and therefore is considered to carry no weight in decision making at this juncture.

2.3 NPPG (National Planning Policy Framework)

2.4 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework (NPPF) require a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The CS was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the CS was made on 9 November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.

3. Planning History

3.1 P193239/F – Proposed Shisha Bar – refused 31/10/2019

4. Consultation Summary

Statutory consultation summary

4.1 Highways England - no objection

4.2 Transportation Manager– no objection

4.3 Environmental Health – Noise/odour

My comments are with regard to potential noise and nuisance issues that might arise from development.

At the request of colleagues in our Street Trading and Licensing department and in response to a number of objections raised by neighbours I visited the site on 10th December and the trader on 11th December. On 12th January 2021 I undertook a further site visit.

The site visit on 10th December found the extract flue to the trailer had been extended so as to point in an easterly direction away from the closest flats – and therefore the most likely to be impacted flats at Belmont Square which I identified as being nos 13 to 18 inclusive. Almost all of the remaining flats are screened by these flats from the trailer and are significantly further away. I was not able to inspect the trailer in operation as there was no electricity supply. I could observe where cooking would take place and the odour abatement present inside the trailer and discussed

Further information on the subject of this report is available from Mr Clive Lloyd on 01432 383403

with Mr Marin his cooking processes. I noted that the most likely affected flats are to the south west and west of the trailer i.e. away from the prevailing south west wind direction. I noted that the windows to the rear eastern ground and first floor elevation to flats 15 and 16 are the closest at approximately 17m from the flue outlet. These flats also have a side elevation windows at ground and first floor of approximately 18m. All other flat windows are more than 20m away from the flue.

I visited the applicant Mr Marin who was trading in High Town in Hereford on 11th December. He had a very small deep fat fryer for chips and was cooking chicken. The stall was open sided on 2 sides and there was no odour abatement. Odour from the cooking I found to be detectable at 5m in one direction and very barely at 10m in another.

I take the view that odour from the cooking process might occasionally be faintly detectable if the wind was blowing in a north easterly direction and/or if the door to the mobile trailer was open. I do not believe it would have adverse impacts on any residents save potentially those closest. I am of the opinion that odour is not likely to have significant adverse impacts if the door to the trailer is kept closed during the duration of the cooking process.

I do not anticipate that there would be street noise in the form of voices arising from the trailer as it is not intended to trade late into the night. I would recommend that no amplified music be played from the trailer. I revisited the site on 12th January when a temporary electricity supply was connected to the trailer so that I could listen to the noise generated from the internal fan serving the extract ventilation system. At this visit I noted that the fan noise was not audible to the rear of the trailer.

Our department has revisited this site and/or operation as a result of concerns raised by local residents. We take the view that providing that the following conditions are met there should be minimal, if any, adverse impacts on the very closest local residents and therefore do not object to this proposal. (In the light of equipment for example being defective or other behaviours not anticipated, our department retains legal powers and duties to investigate potential claims of Statutory Nuisance under the Environmental Protection Act 1990 which includes noise and odour).

The following conditions are:

- The access door to the mobile trailer shall be kept closed during the hours of cooking save for being used for the accessing of raw materials or disposal of waste.
- There shall be no amplified music from the trailer which is audible beyond the boundary of no 8 Belmont Road.
- Trading from the trailer shall not be outside the hours of 10.00 to 22.00 Monday to Sunday.

Please note that I have extended the trading hours from what is in the street trading licence from 10.00 to 22.00 – I have only done this because I think it was be an unreasonable condition in planning terms to specify any later

Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31.

5. Representations

- 5.1 Hereford City Council objected to Planning Application 201996. Councillors felt that the proposed location of the food wagon is in very close proximity to the existing dwellings of Belmont Square and would cause unacceptable noise, odours and disturbance to the local residents.

- 5.2 Seventeen objections were submitted by residents of Belmont Square, which is situated immediately behind the proposed site. A further five objections were received from residents of Belmont Road and one from a resident of Myra Villas.

All objections received raised concerns in respect of noise and smell.

- 5.3 The consultation responses can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201996&search-term=201996

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

- 5.4 A petition of support with 343 supporters was also received. However, due to General Data Protection Regulations 2018 we were unable to accept the petition.

6. Officer's Appraisal

Policy context and Principle of Development

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:
"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 The issues to be considered with this application are highway safety, principle of development in this location, residential amenity and impact on the conservation area.
- 6.4 Principle of development – Paragraph 117 of the NPPF states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other use, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.5 Policy LD1 of the Core Strategy states that proposals should demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection.
- 6.6 The location of the proposed development would sit to the rear of a small retail unit and in close proximity to the location of a large supermarket and petrol station. There are residential properties to the rear (western side) of the proposal. The area as a whole is a mix of retail, social (Welsh Club to the south east), and residential. The proposal is for a use that could be considered as a facility that would increase the variety of services offered to residents in the area. There would be no loss of an existing unit and it would be utilising the underused rear yard of 8 Belmont Road. Although the site is located outside the city area, the principle of this use in the location would be acceptable due to the existing mix of uses surrounding the site and sustainable transport links.
- 6.7 Highway Safety – CS Strategy MT1, states that proposals should demonstrate that the local and strategic highway network can absorb traffic impacts without adversely affecting the safe and efficient flow of traffic on the network, or that any impact can be managed to acceptable levels.
- 6.8 There is a small parking area directly adjacent to the site accessed off the slip road to Asda supermarket. In addition there are car parks within the vicinity. There are also alternative methods of transport available to the site, including walking cycling and bus stops nearby along Belmont Road and Ross Road.

- 6.9 It is noted that that neither the Highways Area Engineer nor Highways England have submitted any objections to the proposal.
- 6.10 It is considered the proposal would not impact upon the road network and therefore complies with CS policy MT1.
- 6.11 Residential Amenity – CS Policy SD1 requires that development should respect surrounding development and uses, whilst safeguarding good standards of amenity for both existing and proposed residents, and to ensure development does not contribute to adverse impacts arising from noise, light, or air contamination.
- 6.12 Given that the area has an existing mix of retail uses with their individual operating hours, close proximity to the A49/A465 junction, the proposed operating times of 10:00am to 22:00pm and that it is the opinion of Environmental Health that any possible disturbance arising from either noise or smell can be managed satisfactorily by the imposition of operating conditions, it is considered that the proposal would not have any unacceptable adverse amenity impact on residents residing in the immediate vicinity and therefore complies with CS policy SD1 and the NPPF.

Other Considerations

- 6.13 Flooding – The site is identified as being located within Flood Zone 3, and the agent has submitted a flood risk assessment.
- 6.14 It is not considered that the proposal would be unacceptable in flood risk terms, given that the area benefits from flood defences and having due regard to CS policy SD3.
- 6.15 Air Quality – The site is located on the edge of the Air Quality Management Area, however, given that no objections have been submitted by Environmental Health, it is not considered that there would be any impact on air quality to residents.
- 6.16 A street trading licence has been granted in respect of the operation for an initial period of 6 months only, to allow for monitoring and evaluation. With the following conditions;

Trading days/hours: Monday to Sunday - Not before: 1200hrs - Not later than: 2200hrs

Representations raised through the consultation process are noted and dealt with through the imposition of an initial consent period of 6 months and specific conditions (in addition to standard terms and conditions) as follows:

- The access door to the mobile trailer shall be kept closed during the hours of cooking, save for being used for the accessing of raw materials
- There shall be no amplified music from the trailer which is audible beyond the boundary of no 8 Belmont Road.

Conclusion

- 6.17 The proposed change of use in this location is acceptable and complies with all relevant policies of the Core Strategy , and therefore, this application is recommended for approval.

RECOMMENDATION

That planning permission be granted subject to the following conditions and any other further conditions considered necessary by officers named in the scheme of delegation to officers:

1. **C54 (Restriction on hours of opening)**

The use hereby permitted shall not be open to customers outside the hours of 10:00hrs and 22:00hrs Monday to Sunday.

Reason: In the interests of the amenities of adjoining residential amenity in the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and National Planning Policy Framework.

2. **The access door to the mobile trailer shall be kept closed during the hours of cooking, save for being used for the accessing of raw materials.**

Reasons: In order to protect the amenity of nearby properties so as to comply with Policy SD1 of the Herefordshire Local Plan Core Strategy and NPPF

3. **There shall be no amplified music played from the trailer.**

Reasons: In order to protect the amenity of nearby properties so as to comply with Policy SD1 of the Herefordshire Local Plan Core Strategy and NPPF.

INFORMATIVE:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

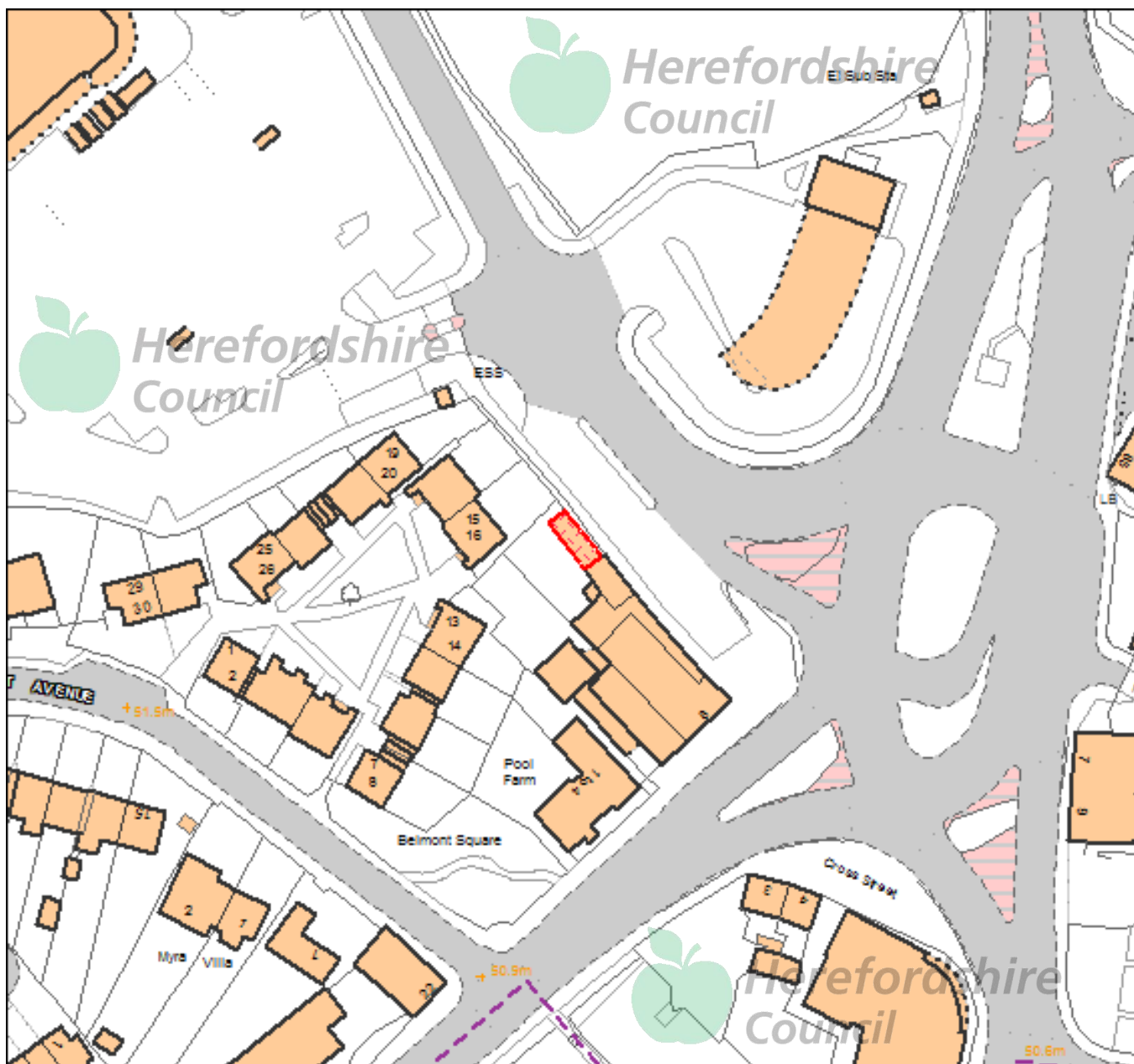
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 201996

SITE ADDRESS : 8 BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7JE

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005