



## **PLANNING COMMITTEE**

**MEETING** : Tuesday, 7th March 2023

**PRESENT** : Cllrs. Taylor (Chair), Morgan (Vice-Chair), Bhaimia, D. Brown, J. Brown, Campbell, Conder, Dee, Finnegan, Sawyer, Toleman and Tracey

**Officers in Attendance**

Planning Development Manager

Planning Officer

Locum Planning Lawyer, One Legal

Democratic and Electoral Services Officer

**APOLOGIES** : None.

### **46. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **47. MINUTES**

**RESOLVED** that the minutes of meeting held on Tuesday, 7 February, 2023 were confirmed and signed by the Chair as a correct record.

### **48. LATE MATERIAL**

Late material had been circulated in relation to agenda item 5 – 130 Reservoir Road (22/00884/FUL).

### **49. 130 RESERVOIR ROAD, GLOUCESTER GL4 6RY - 22/00884/FUL**

The Planning Officer presented the report, detailing an application for a Change of Use from retail (Class E) to Mixed Use comprised of Hot Food Takeaway (Sui Generis) and retail (Class E). Retrospective application for installation of External Extraction Unit.

Using Chairs Discretion, the applicant and a local resident addressed the Committee in favour of the application.

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They stated that the application should be granted on the following grounds:

- The business had been operating and addressing the needs of the local community for over 20 years.
- The hot food service was set up before the coronavirus pandemic and served hot food in the morning, which received positive feedback.
- The reason hot takeaway food was served, and the extraction flue built without planning consent was because he (the applicant) had not asked the right questions about what needed planning consent, it was not malicious.
- They had not served hot food takeaway since the coronavirus pandemic had started.
- The business had liaised effectively with the Council, the only reason for refusal was now the look of the extraction flue and its impact on visible amenity. There were multiple businesses in the area that had a similar and more domineering extraction flue and look. This included a fish and chip shop across the road from the store.
- The local resident stated that the business had been a life saver for him, as it was easily accessible and that he had been helped when he had previously had a fall.

**Members' Questions**

The Planning Officer responded to members' questions concerning what the specific reasons for the recommendation for refusal were, whether the principle of development was acceptable on planning grounds, whether reducing the impact of the appearance of the extraction flue would make the application more compliant on planning grounds, whether the extraction flue could be moved to a different wall, how many objections there had been and the nature of these objections, whether there were facilities for oil storage, whether there had been a specific complaint from the neighbouring property, had the kitchen been built, concerns about commercial creep, noise, and odour, litter, parking concerns, who would be using the store and whether the extraction flue could be painted as follows:

- The Vice-Chair was correct to state that the application was not being recommended for refusal on the principle of development. The reason for the officer recommendation for refusal revolved predominantly around its contradiction to policy C4 of the recently adopted Gloucester City Plan. That policy stipulated that hot food takeaways must satisfy six criteria which was laid out in the officer report and that the application in front of the Committee did not satisfy the first of these criteria. This was that the design of the unit could not have a 'significant adverse' impact on the visual amenity of the area.
- It was difficult to say with certainty whether reducing the size of the extraction flue or moving it would make it policy compliant with policy C4 of the adopted Gloucester City Plan. These changes might reduce its visible amenity impact. However, the recommendation could only be based on the application before Committee. When making the assessment of whether the application contradicted policy, as there were other hot food takeaways within the area that had extraction flues, it was stress tested and there were

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three aspects that separated it. They were the location of the flue, the design of the flue and the height of the flue. Further, the City Plan had recently been adopted so more weight could be afforded to policy C4 than previously.

- The potential moving of the extraction flue onto a different wall, would be a discussion for the applicant and the agent to have. The proximity of the flue to the neighbouring property was originally a reason for refusal. However, after changes were made to the application, the environmental health consultant was satisfied with the application.
- The extraction flue was installed prior to seeking planning consent so he was unsure as to when it was installed.
- There was no through traffic through Selwyn Road.
- It was difficult to speculate as to who would be using the store for Hot Food Takeaway purposes. People may come from outside the catchment area to use the store. However, it would probably be mainly by the local residents. However, this would be speculation and was not a planning consideration.
- There were five total objections, four of which were outlined in the report and one in the late material. The main concerns related to the impact it had on the neighbouring property. There was concern about traffic in the area that would be caused by users of the Hot Food Takeaway and parking on Reservoir Road. There were also concerns raised about litter.
- The Highways Authority undertook a full assessment as part of their role as a statutory consultee. They raised no objection to the proposals.
- He did not believe that a kitchen extension had been installed.
- He was not aware of any Oil Storage Facilities.
- In regard to concerns raised about parking, he could only reiterate that Gloucestershire Highways had assessed the application in detail and raised no objections.
- Regarding concerns about littering, there was an adequate provision of public dustbins in the vicinity.
- It was not for the officer to comment on whether the extraction flue could be relocated, he could only judge the application that was put before him.
- After proposals were resubmitted on the 20th February 2023, The Environmental Health Advisor was satisfied that any noise impacts would not result in an unacceptable amount of harm. They were also content that any odour as a result of the proposals would not be at an unacceptable level subject to the imposition of odour mitigation conditions prior to first use/occupation.
- The Flue installed prior to the seeking of planning permission was lower than the proposed one.
- The position of the Extraction Flue was probably based on the position of the proposed kitchen which was in the back-right-hand side of the property.
- There had been a complaint made by the neighbouring property.
- The kitchen had not yet been built.
- In regard to whether the Extraction Flue could be painted, he felt that it would be speculative to state whether painting it would overcome the issue of the significant negative affect on the visible amenity of the area.

The Locum Planning Lawyer answered a members' question concerning whether the application could be deferred as follows:

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- The application could be deferred if the Committee but reasons for deferral would need to be provided such as to secure amendments, without which the application would have to be refused.

**Members' Debate**

The Vice-Chair noted that the reason for refusal was that it would have a significant adverse impact on the visual amenity of the area and that he believed, on balance that the proposed application would not have a 'significant' impact and that, therefore, he may vote against the officer recommendation.

Councillor David Brown highlighted paragraph 5.2 of the officer report, which outlined the content of the letters of objection to the application. He said that none of them talked about the visual amenity impact on the area. He added that he agreed with the Vice-Chair that he did not think that there may not be a significant adverse impact and that he was finding the decision to make difficult.

Councillor Toleman stated that he believed that the extraction flue being in a high position was advantageous as that would mean that there would be less sound and odour issues.

Councillor Dee stated that whilst she was sympathetic to the needs of the business, she had driven past the site on several occasions and observed that the Extraction Flue had a significant negative impact on the visual amenity of the area. She believed that the proposed application would still have a negative effect on the area's look. Additionally, she expressed concerns about parking and traffic that she believed would be exacerbated if the application were granted. She noted that there were numerous parked cars in the area, which caused cars to pull out which could lead to an accident. She believed that the granting of the application would worsen the parking and traffic situation.

Councillor Sawyer suggested that deferring the decision could be an option, allowing for a more sensible design and location for the Extraction Flue to be found that would be more sympathetic to the area's visual amenity. She pointed out that since the kitchen had not yet been installed, it was still possible to make changes.

Councillor Conder expressed the view that granting the application would heavily impact the neighbouring property. She mentioned that cars would park on the pavement while people ate hot food bought at the store, causing pedestrians to walk into the road. She also believed that the visual impact of the Extraction Flue would still be significant and considered it an eyesore. She suggested that changing the flue's location as it would be beneficial for all parties.

Councillor Tracey stated that she believed that the application should be granted. She said that there were other facilities that provided hot food takeaways in the area, so that the extraction flue was not out of the character.

The Vice-Chair proposed, and Councillor Toleman seconded a motion to grant the application on the basis that the ventilation unit would not have a significant adverse impact on the visual amenity of the area, making the application compliant with policy C4 of the adopted Gloucester City Plan and that conditions placed on

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the application would be delegated to the Planning Development Manager and approved by the Chair and Vice-Chair of the Committee.

**RESOLVED that:** - the application is GRANTED, as the ventilation unit would not have a significant adverse impact on the visual amenity of the area, making the application compliant with policy C4 of the adopted Gloucester City Plan.

**AND**

Subject to the application complying with conditions that would be delegated to the Planning Development Manager and approved by the Chair and Vice-Chair of the Committee.

**50. DELEGATED DECISIONS**

The schedule of applications determined under delegated powers during the month of January 2023 was noted.

**RESOLVED that:** - the schedule be noted.

**51. DATE OF NEXT MEETING**

Tuesday 4th April 2023 at 6pm in Civic Suite, North Warehouse.

**Time of commencement: 6.02 pm**

**Time of conclusion: 7.08 pm**

**Chair**