

<b>APPLICATION NO</b>	<b>PA/2018/1929</b>
<b>APPLICANT</b>	Miss Jessica Bone
<b>DEVELOPMENT</b>	Planning permission for change of use from A2 (retail) to A5 (hot food takeaway)
<b>LOCATION</b>	Former florist's, Cambridge Avenue, Bottesford, DN16 3LG
<b>PARISH</b>	Bottesford
<b>WARD</b>	Bottesford
<b>CASE OFFICER</b>	Mark Niland
<b>SUMMARY RECOMMENDATION</b>	<b>Grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Member 'call in' (Cllr Margaret Armiger – significant public interest)  Significant public interest
<b>POLICIES</b>	

**National Planning Policy Framework:** Paragraph 47 – Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales, unless a longer period has been agreed by the applicant in writing.

Paragraph 80 – Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

Paragraph 170 (e) – Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.

**North Lincolnshire Local Plan:** S6, S9, DS1, DS11

**North Lincolnshire Core Strategy:** CS1, CS3, CS5

## **CONSULTATIONS**

**Highways:** No comments or objections to make.

**Environmental Health:** No objections subject to conditions relating to extractions and filtration, plant for refrigeration, ventilation and air conditioning installation, and a restriction of operating hours.

## **TOWN COUNCIL**

No objections.

## **PUBLICITY**

The site has been advertised by site notice. Over 25 objections have been received, as well as a petition containing over 50 signatures. These numbers are approximate due to duplicate objections and signatures having been received. However, there is a high level of opposition to the application. The objectors' concerns are summarised below (though are not exhaustive):

- increase in antisocial behaviour, especially from an 'influx of youths'
- highway safety
- lack of parking
- noise
- impact upon residential amenity
- increased competition to other business in the area
- there is no need for an additional pizza shop
- inability for emergency service to access dwellings (St Catherine's Crescent) due to the road network being blocked with vehicles
- increase in littering.

## **ASSESSMENT**

The site is located within the settlement limits for Scunthorpe and Bottesford as identified by the Housing and Employment Land Allocations DPD 2016. The proposal is the end unit of a row of commercial properties that are designated as being a local shopping centre within the HELA DPD and therefore policy TC-1 is relevant as well as saved policy S6 of the local plan. There is an area of parking in front of the unit (which was formerly a florist's) and this serves the row of units. The premises are currently vacant and the applicant seeks to reopen the property as a hot food takeaway.

**The key issues of this proposal are impacts upon amenity by noise and disturbance, parking provision and environmental issues relating to smell and odour.**

### **Principle of development**

The proposal is identified as being within a small local centre within the HELA DPD. Policy S6 is therefore relevant. The policy states that the change of use of corner shops and

shops in small local centres from Use Class A1 (Shops) to non-shopping uses will be permitted provided that:

- (i) the existing use is not a convenience goods store or retail outlet which is required to meet the day-to-day shopping needs of residents in the neighbourhood; and
- (ii) it can be satisfactorily demonstrated that the unit is no longer viable for retail purposes and that reasonable efforts have been made to dispose of the property for a Class A1 use; and
- (iii) it can be proven that the proposed use would be a significant benefit to the local community.

The property is vacant at present and has been for some time, and the applicant seeks to reopen the premises with an A5 use. Whilst it is preferable for an A1 use to occupy the shop, there is already an A1 newsagent's and an A1 pharmacy in two of the four units on the parade. The other unit is a restaurant (A3). The fact that the shop has been vacant for some time demonstrates current market conditions in that an A1 use has not come forward during this period. It is therefore considered that an A5 use would be appropriate. There have been a high number of objections to the proposal but the economic benefits of a 'buoyant' parade of shop in the area would certainly be of benefit to the local economy. There are of course amenity aspects to consider and these are discussed later in this report.

Policy S9 of the local plan is also relevant and is concerned with restaurants and hot food takeaway establishments. It states that "...Proposals for restaurant and hot food takeaway establishments will be permitted in town, district and local centres" subject to a list of criteria. The criteria relate to impacts upon nearby amenity, highway safety, odour and emissions amongst other matters. The policy also states that the local planning authority should consider whether or not it is desirable to limit operation hours through planning conditions.

Therefore, subject to an assessment of the suitability of the proposal in highway, amenity and environmental terms (the latter two being inextricably linked), the proposal would align with policies S6 and S9 of the local plan and is considered acceptable in principle.

### **Amenity/environmental issues**

Part of policy DS1 is concerned with impacts upon amenity. It states that "No unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing." Furthermore, policy DS11 is concerned with polluting activities; both are considered relevant.

The proposal to open a hot food takeaway has been reviewed by the Environmental Health department. The environmental health officer (EHO) has no objections to the proposal subject to the imposition of conditions relating to control of emissions, including smoke and odour, as well as refrigeration. The EHO has also put forward an operating hours condition of 4pm to 10.30pm but does not make the days explicit. The applicant has applied for operating hours of 4pm to 10.30pm Monday to Friday, and on Sundays and bank holidays, but until 11pm on a Saturday night. It is considered that these hours are appropriate and in line with similar business operating hours in the area.

It is therefore considered that emissions, including noise and odour, as well as from any plant for refrigeration, would be mitigated by the aforementioned planning conditions. There have been a number of objections expressing concerns in relation to impacts upon amenity by both the noise emanating from the proposal as well as the business attracting an 'influx of youths'. Whilst the latter is not a planning consideration, the impact of noise, when considered in addition to other uses on the shopping parade, would not be at an unacceptable level to warrant refusal and this is controlled by the operating hours condition.

It is therefore considered that the proposal would be in accordance with policies DS1 and DS11 of the North Lincolnshire Local Plan.

### **Highway safety**

Policy T2 of the North Lincolnshire Local Plan is concerned with access to development and states that all developments should be served by a satisfactory access. Whilst policy T19 is concerned with parking provision; both are considered relevant.

The applicant does not seek to make any changes to the provision of parking or the existing access arrangement; this, in any case, is outside the applicant's control. The council's Highways team has been consulted and has stated that they have no comments or objections to make. The proposal is located within a local shopping centre which has existing parking to the front and side which would allow the business to function without the need to park on the road outside residential properties. It is therefore considered that the proposal would align with planning policies T2 and T19 of the North Lincolnshire Local Plan.

### **Conclusion**

There are no technical objections to the proposal and mitigation through planning conditions in relation to environmental issues is considered to make the proposal acceptable. It is therefore considered that the proposal is in accordance with planning policies S6 and S9 of the North Lincolnshire Local Plan.

### **RECOMMENDATION Grant permission subject to the following conditions:**

1.  
The development must be begun before the expiration of three years from the date of this permission.

#### **Reason**

To comply with section 91 of the Town and Country Planning Act 1990.

2.  
The development hereby permitted shall be carried out in accordance with the following approved plans: Block Plan PA/2018/1929/002 showing the premises outlined in red.

#### **Reason**

For the avoidance of doubt and in the interests of proper planning.

3.  
The use hereby permitted shall not commence until a scheme for the extraction and filtration of cooking odours has been submitted to and approved in writing by the local

planning authority. The scheme shall also provide details of the noise impact of any extraction and filtration system and the details of any noise mitigation measures necessary. The approved scheme shall be implemented prior to commencement of the use and maintained thereafter.

Reason

To protect residential amenity in accordance with policy DS1 of the North Lincolnshire Local Plan.

4.

No plant for refrigeration, ventilation or air-conditioning shall be installed until the details have been submitted to and approved in writing by the local planning authority. The details shall include an assessment of likely impact of the plant on residential amenity, specifying noise output and any mitigation measures necessary. All plant shall be installed and maintained in accordance with the details approved by the local planning authority.

Reason

To protect residential amenity in accordance with policy DS1 of the North Lincolnshire Local Plan.

5.

The operating hours of the premises shall be limited to the following:

- 4pm to 10.30 pm Monday to Friday
- 4pm to 11pm on Saturdays
- 4pm to 10.30pm on Sundays and public/bank holidays.

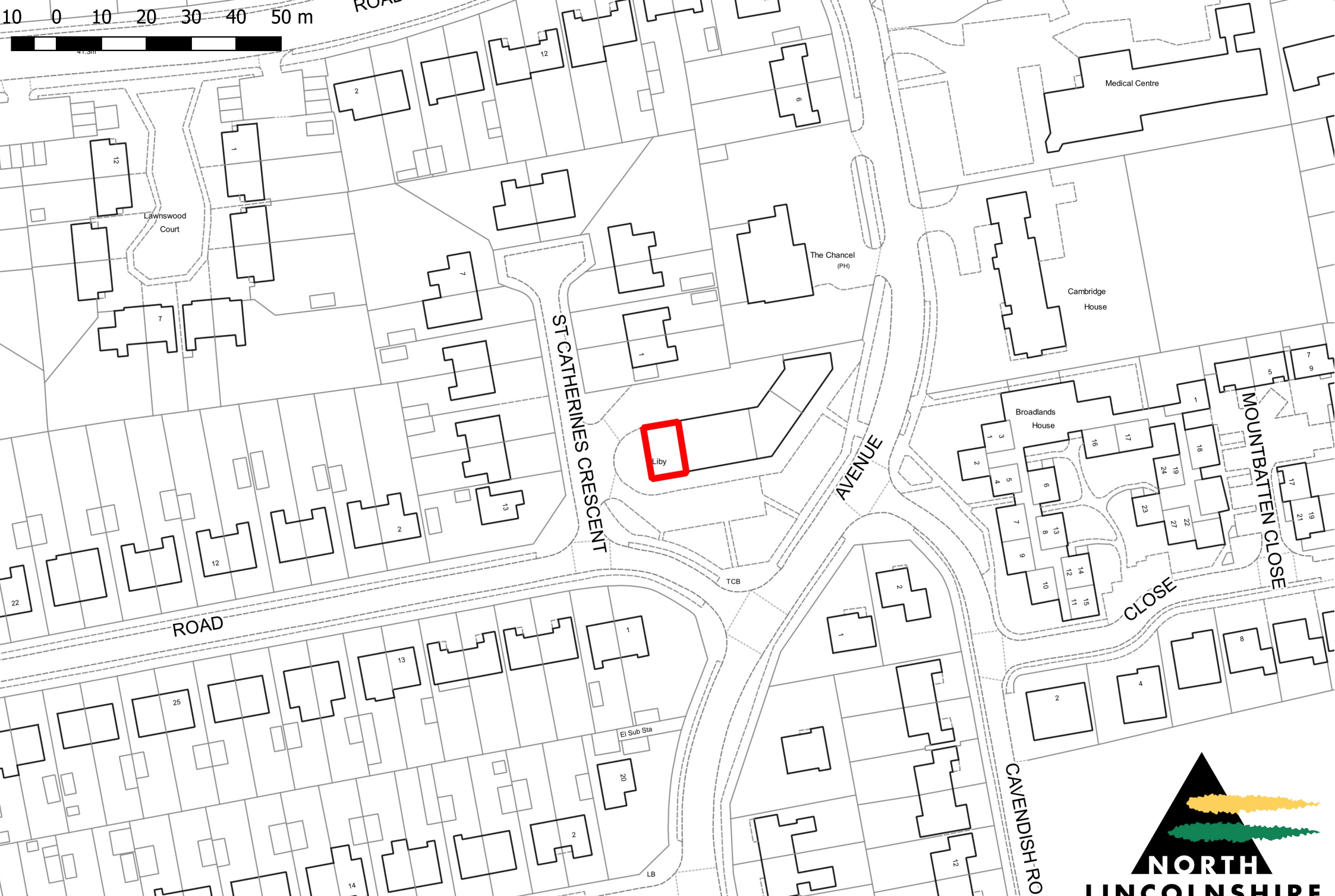
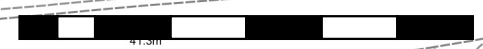
Reason

To protect residential amenity in accordance with policy DS1 of the North Lincolnshire Local Plan.

**Informative**

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

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