

APPLICATION NO	PA/2020/57
APPLICANT	Mr Darren Shafer
DEVELOPMENT	Planning permission for the change of use from retail (A1) to hot food takeaway (A5)
LOCATION	336-338, Ashby Road, Scunthorpe, DN16 2RS
PARISH	Scunthorpe
WARD	Kingsway with Lincoln Gardens
CASE OFFICER	Mark Niland
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Cllr Tony Gosling – significant public interest)

POLICIES

National Planning Policy Framework: Paragraph 38 – Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

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 117 – Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

Paragraph 170(e) – Prevents 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.

Annex 2: Glossary

Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

North Lincolnshire Local Plan: S9, DS1, DS11, T2, T19

North Lincolnshire Core Strategy: CS1, CS3, CS5

Housing and Employment Land Allocations DPD: TC-1

CONSULTATIONS

Highways: No comments or objections.

Drainage (Lead Local Flood Authority): No objections.

Environmental Protection: No objection subject to a condition that would tie the first-floor residential element to those working in the takeaway. Furthermore, a condition removing rights for any new filtration or extraction is requested to be attached.

PUBLICITY

The application has been publicised by means of a site notice in accordance with Article 15 of the Development Management Procedure Order 2015 as amended.

ASSESSMENT

Planning history

6/1978/0492: Change of use of optician's into a pharmacist's – granted subject to conditions.

PA/2004/0433: Variation of condition 2 of planning permission 6/492/78 dated 15/03/1979 in order that the chemist can change use to a convenience store and to install a new shop front; also to erect two external staircases to first-floor flats and carry out alterations to flats – granted subject to conditions.

PA/2002/0123: Change of use of a shop into a restaurant – refused.

PA/2009/1031: Change of use of an existing shop to a hot food takeaway with associated external flue – refused.

Site characteristics

The building fronts Ashby Road and is located well within the settlement boundary for Scunthorpe and Bottesford as identified by the Housing and Employment Land Allocations DPD 2016. The double-fronted property already has shop fronts installed and has been used as chemist's in the past. Applications for a restaurant as well as a hot food takeaway have previously been refused. The building, which has an extant A1 use at ground floor, also has a residential use above. The ground floor premises have been vacant for over eight years.

The main consideration for this application is whether or not an A5 use is appropriate given its location outside of any identified town centre. There are no objections from consultees. The following issues are relevant to this assessment:

- **principle of development**
- **environmental issues/impact upon amenity**
- **highway safety.**

Principle of development

Policy S9 of the local plan is concerned with restaurants and hot food takeaways and is considered relevant. It states, "...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 hours of operation through planning conditions.

This policy is bespoke and forms the basis of the principle argument. The policy appears to only allow A5 uses within identified town centres and policy TC-1 would overlap with policy S9 if it were located within a town centre. The application site, however, is located outside of its nearest district centre of Ashby and is therefore unacceptable in principle. An application for a hot food takeaway has previously been refused on principle grounds as well as impacts upon residential amenity despite no consultee objections.

Paragraph 47 of the National Planning Policy Framework (NPPF) states, "...Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise." There are material considerations in this instance in that the premises already has an A Class Use and is located outside of a defined district centre; there are other non-residential uses abundant in the area with a Chinese takeaway next door but one, next to that a council building and next door a drinking establishment. To the west is a computer sales shop, close to a Catholic Church, across from which is another drinking establishment and a bookmakers. Lastly, the premises have been vacant for over eight years and in that time another A1 use has not come forward. On top of this the council approved a Tesco Local in the immediate area in 2006. It is considered that the abundance of A1 uses in the area, as well as the time spent vacant, is enough to suggest that it is unlikely another A1 use will come forward.

The ground floor is designed as a shop and naturally would lend itself, given its proximity to other similar businesses as well as the night time economy, to becoming a hot food takeaway.

Paragraph 117 of the NPPF tasks decision takers to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. There have been numerous objections to how the takeaway will impact upon the local residents; however, the concerns relating to odour, noise, highway safety and other environmental issues are not shared by consultees. Whilst it is unlikely that a takeaway would contribute to 'healthy living conditions', there are a number of similar uses in the area and there is no current Development Plan policy that would support a refusal on these grounds. The proposal would result in the adaptive re-use of a shop that has been vacant for over eight years and would therefore meet with the NPPF's requirements for brownfield sites.

Because of its proximity to other business uses, the time spent vacant, the re-use of a brownfield site, the lack of consultee objections and that the extant use is an A Class, it is recommended that material considerations exist that would suggest a departure from the plan, and specifically policy S9 of the local plan, is appropriate in this instance.

Environmental issues/amenity

Policy DS1, in part, is concerned with amenity and 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. Policy DS11 of the local plan is concerned with polluting activities and is also considered relevant.

The applicant has submitted both specifications and elevations of the extraction system. The applicant also states that they intend to live in the residential accommodation above. The council's Environmental Protection officer initially recommended refusal of the application due to the impact from the takeaway on the upstairs flat. However, this objection has been removed given the applicant clearly states that they are to occupy the residential premises above the shop. The officer has recommended that there should be a condition linking the residential and commercial planning units, and given that the applicant has stated that this is the intention, a condition will be attached to reinforce this relationship. A condition controlling any future extraction systems has also been recommended, as well as operating hours.

It is considered, given the aforementioned mitigation, that the proposal is in accordance with both policies DS1 and DS11 of the North Lincolnshire Local Plan and will not result in any unacceptable impact on the amenity of neighbouring properties.

Highway safety

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

The highway development control team has reviewed the information and has no objections to the proposal. The property has an extant permission for A1 use and given there are no changes to access arrangements nor parking provision, the proposal for A5 is

unlikely to require additional mitigation measures. The closest public car park is on Ashby High Street.

It is considered that the proposal would align with policies T2 and T19 of the North Lincolnshire Local Plan.

Pre-commencement conditions

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 places a duty on local planning authorities to inform an applicant of the intention to impose pre-commencement conditions to any proposal.

In this instance there are no pre-commencement conditions attached to the permission.

Conclusion

The proposal would represent a departure from policy, specifically S9 of the local plan; however, it is considered that the material considerations outlined within this report would suggest a departure is appropriate in this instance. Environmental Protection has no objections to the proposal subject to the imposition of conditions.

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: Location Plan, Comopy Extraction System Plan dated 20/04/20 showing side and front elevations and extraction system, Floor Plans.

Reason

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

3.
The residential flat above the shop shall be occupied by the operator of the A5 use hereby permitted and shall not be let separately at any time. This relationship shall remain for the lifetime of the permission.

Reason

The proposed takeaway would give rise to unacceptable amenity impacts upon residents of the first floor flat that are not associated with the A5 use. This accords with policies DS1 and DS11 of the North Lincolnshire Local Plan.

4.
Hours of operation of the A5 use shall be restricted to:

- 11am to 11pm Monday to Sunday.

The A5 use shall not operate outside of these hours.

Reason

In the interest of residential amenity and to accord with policy DS1 of the North Lincolnshire Local Plan.

5.

Where any new or replacement ventilation, refrigeration or air conditioning units, are to be installed, a method to control noise and odour from these units shall be submitted for approval by the local planning authority. The submitted details shall include the location, layout and specification of the air conditioning system, including noise data. The noise data shall include details of noise levels emitted by the proposed plant, including frequency spectrum information, noise attenuation measures, if appropriate, and the resulting predicted noise level at the closest residential property. The agreed air conditioning system, including any agreed noise attenuation measures, shall be installed prior to the commencement of use of this development, and shall be retained thereafter.

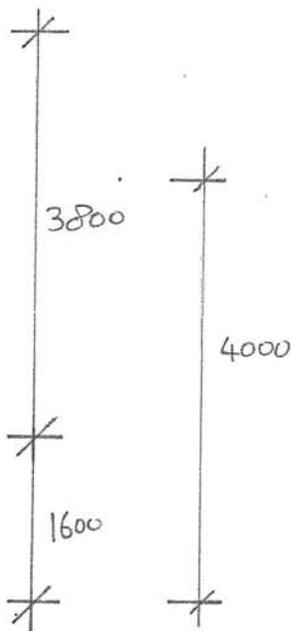
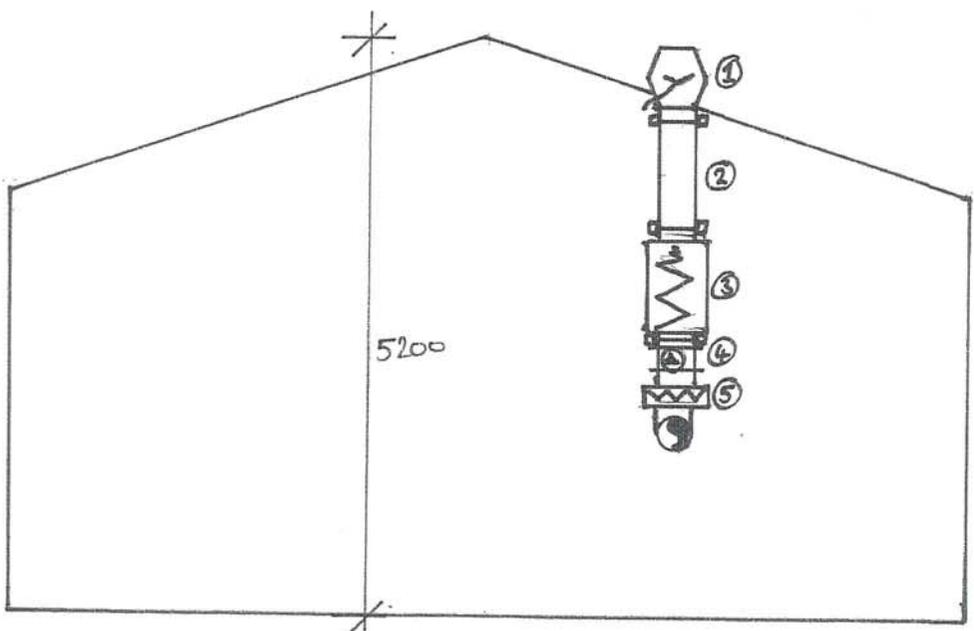
Reason

To minimise the potential for noise nuisance and to prevent the loss of amenity to nearby residential properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

Informative

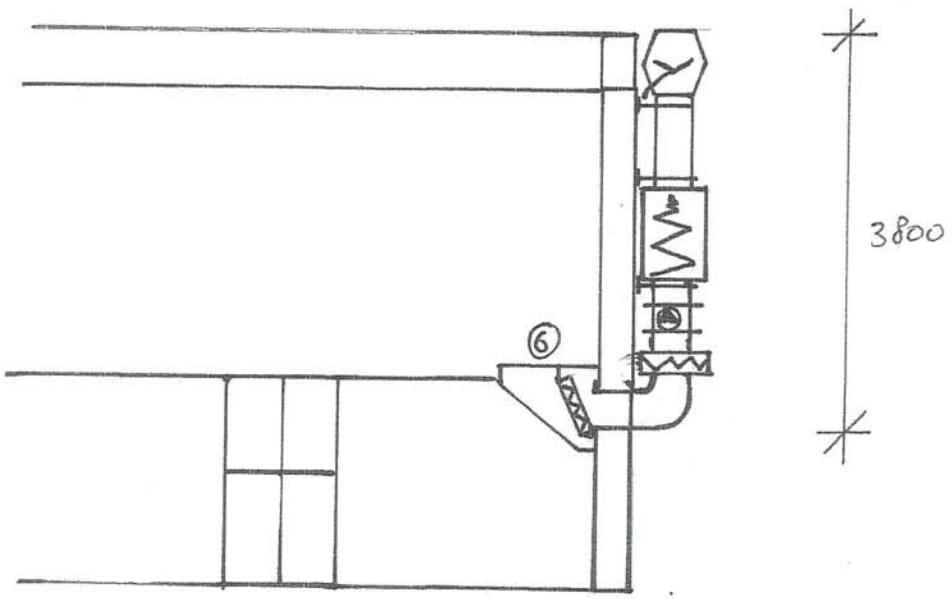
In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

RECEIVED
10 JAN 2020



ITEM	DESCRIPTION
1	High Velocity Jet Cowl
2	Spiral wound Ductwork
3	900 long Attenuator
4	400mm in-line fan
5	Active Carbon filter
6	kitchen canopy

Side Elevation Scale 1:50@A3



Front Elevation from Shop Front Scale 1:50@A3

Abra Kebabra
Ashby Road
Scunthorpe

Canopy Extract System
TOTAL VENTILATION SERVICES LTD.
Ductwork Supply • Installation Specialists • Air Movement



martin@totalventilation.co.uk m: 07734 460 350
www.totalventilation.co.uk w: 01522 694 546

12 Oldcote House • Oldcote Business Park • Wetherby Road • Lincolnshire, UK

Drawn by		
M.B	7.01.20	
Scale 1:50	@ A3	