
MAIN CASE

Reference No: 15/00091/VAR

Proposal: To vary Condition 3 (opening hours) of previously approved 13/00333/FUL for Change of use from A1 to a deli/cafe (mixed use A1/A3) use with ancillary hot food takeaway

Site Address: 65 High Street Sutton Cambridgeshire CB6 2NL

Applicant: P B Food Supplies Ltd

Case Officer: Richard West, Planning Officer

Parish: Sutton

Ward: Sutton

Ward Councillor: Councillor L Dupré
Councillor P Read

Date Received: 30 January 2015 **Expiry Date:**

[P228]

1.0 **RECOMMENDATION**

1.1 Members are requested to APPROVE the variation of condition for opening times, as amended by the case officer and agreed with the applicant by e-mail. In addition to condition 3, the case officer has updated and amended conditions 6 and 7. All other conditions attached to the previous permission will still be applicable. The amended conditions will be as follows:

3. The premises shall only be open between the hours of 07:30 – 19:00 each Monday to Thursday, 07:30 – 22:00 each Friday to Saturday and 10:00 – 16:00 each Sunday.

6. Prior to the installation of any external plant, including condensers refrigeration units, and air conditioning units, noise details and locations, together with any mitigation measures to ensure the noise levels are within acceptable limits, shall be submitted to and agreed in writing with the Local Planning Authority. The agreed details shall be implemented and thereafter retained as such, unless otherwise agreed in writing by the way of a formal planning application.

7. Prior to the installation of any extraction system, details (including type, location and noise levels) shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be in line with current government guidance for the of food being cooked/prepared and shall be implemented and retained

thereafter unless otherwise agreed by the Local Planning Authority by way of a formal application.

The reasons for the conditions will not be amended.

2.0 SUMMARY OF APPLICATION

2.1 This application seeks approval to vary condition 3 (opening times) of the previously approved application reference: 13/00333/FUL. The amended opening times sought are as follows: 07:30 – 10:00 Monday – Saturday and 10:00 – 16:00 Sunday. The permitted uses (A1/A3) of the business will remain as previously approved.

2.2 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council's Public Access online service, via the following link <http://pa.eastcambs.gov.uk/online-applications/>. **Alternatively a paper copy is available to view at the East Cambridgeshire District Council offices, in the application file.**

3.0 PLANNING HISTORY

3.1

13/00333/FUL	Change of use from A1 (previous butchers shop) to a deli/cafe (mixed use A1/A3) use with ancillary hot food takeaway (eg sausage rolls, soup, coffee, toasted sandwiches and similar products) and installation of extraction equipment	Approved	07.01.2014
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4.0 THE SITE AND ITS ENVIRONMENT

4.1 The application site is located within the development envelope and conservation area of Sutton; to the west of the village centre. The unit is situated on the southern side of High Street within a predominantly residential area. Access to the rear of the site is via a shared driveway with No.63 High Street, a two storey dwellinghouse, where there is garage parking.

5.0 RESPONSES FROM CONSULTEES

5.1 Responses were received from the following consultees and these are summarised below. The full responses are available on the Council's web site.

Sutton Parish Council – no concerns

Ward Councillor – Due to the interest both for and against the application, it should be determined by the planning committee

Conservation Officer – The variation of condition will have no impact on the character or appearance of the conservation area

Environmental Health – At present there is no requirement for external extraction equipment. No concerns have been received at present regarding the current operation of the site. No objection.

5.2 Neighbours – 30 neighbouring properties were notified and site notice was posted on 11.02.2015. 20 letters of support and 7 letters of objection were received. 3 letters of representation raising concerns, but not objecting, were received. The responses received are summarised below; A full copy of the responses are available on the Council's website.

Objections/concerns:

- Disturbance to nearby residents in the evening;
- Increased pressure on parking in the High Street;
- Increased litter;
- The later opening times would be suitable for a takeaway should the applicant wish to sell the business;
- The existing opening time of 08:00 is not utilised so an earlier opening is unnecessary;

Support:

- Later opening times would allow those working full time to use the deli/cafe;
- The deli/cafe is an asset to the community;
- This provides a needed facility in the village;
- With opening on Sundays it would reduce the need to travel outside the village for breakfast;
- The deli provides good local produce;
- Lack of an extended hours could lead to the loss of the business due to viability;
- There are limited places in the village where a sit-in meal can be had in the evenings;
- Since opening there have been no traffic, litter or disturbance issues;

6.0 The Planning Policy Context

6.1 East Cambridgeshire Core Strategy 2009

CS1 Spatial Strategy
S6 Transport impact
EN2 Design
EN5 Historic conservation

6.2 East Cambridgeshire Draft Local Plan Pre-submission version (as modified)

GROWTH 2 Locational strategy
GROWTH 5 Presumption in favour of sustainable development
COM 7 Transport impact
ENV 2 Design

ENV 11 Conservation Areas

6.3 National Planning Policy Framework 2012

- 3 Supporting a prosperous rural economy
- 12 Conserving and enhancing the historic environment

6.4 Planning Practice Guidance

7.0 PLANNING COMMENTS

7.1 This application seeks to amend the permitted opening times of the deli/cafe that were attached to the previous permission, reference: 13/00333/FUL. The existing condition and reason are as follows:

‘The premises shall only be open between the hours of 08:00 – 19:00 Monday to Friday and 08:00 – 20:00 hours on Saturdays.

Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy EN2 of the East Cambridgeshire Core Strategy 2009’

The proposed opening times, as requested by the applicant, would amend the condition to read:

‘The premises shall only be open between the hours of 07:30 – 22:00 Monday to Saturday and 10:00 – 16:00 on Sundays

Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy EN2 of the East Cambridgeshire Core Strategy 2009’

The main issues in assessing this application will be the justification to extend the opening hours and the potential impacts on amenity and car parking

Justification

7.2 As originally submitted, the application provided little business justification for the extended opening hours. The application form stated that some customers had requested extended opening hours and that it would make the viability of the business more sustainable if the opening hours were brought in line with other businesses in the High Street.

7.3 The case officer sought further information relating to the viability of the business and the applicant provided the following information:

- The overall issue with viability is the volume of sales;
- Sales could be vastly improved by the provision of breakfast – currently not available as residents have left for work before the cafe opens;
- Later opening times would allow for the provision of evening meals and special occasions e.g. valentine’s day;

- Sunday opening times would allow the provision of afternoon teas and special occasions e.g. mother's day;
- There is not capacity to operate as a major food provider in that the business has no gas, extraction system and only single phase electricity.

7.4 The business is recognised as a sustainable alternative option to traveling outside the village for similar services. Some consultation responses recognise the business as a key asset to the community and have been supportive of extended opening times, especially the addition of Sunday openings. Policy GROWTH5 of the Draft Local Plan notes that the district council will work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in that area. Additionally, paragraph 28 of the NPPF notes that to promote a strong rural economy local plans should promote the retention and development of local services and community facilities in the village.

Amenity

7.5 As noted above, the condition was attached to the previous permission to safeguard the residential amenity of neighbouring occupiers. The case officer for the previous application noted that the times requested were suitable for an A1 use and the closing time would avoid late night disturbance to the surrounding neighbours. In addition to restricting the opening times, design and details of any external plant machinery and extraction equipment would have to be agreed with the local planning authority and a condition attached relating to maximum noise levels.

7.6 The applicant has not installed an extraction system as it is not considered necessary for the activities that are currently undertaken. Environmental Health have been consulted on the application and confirmed that since the business opened there have been no complaints relating to the use of the business including noise levels.

7.7 Extended opening hours has the potential to create noise pollution arising from the functioning of the business as well as customer movements to and from the business.

7.8 As the site is located along a High Street it would be expected that there will be a certain level of pedestrian and vehicular movements, especially at weekends. However, the business is not located in the village centre and is surrounded by primarily residential properties that would expect the road to be relatively quiet on weekday evenings. For this reason, the case officer has recommended the approval of the extended opening times Friday to Sunday and earlier opening times however to protect the amenity of the neighbouring occupiers the weekday evening closing times should be kept as existing.

7.9 Extraction equipment, if implemented, is unlikely to have a significant detrimental impact on neighbouring amenity due to the conditions relating to design and details needing to be submitted to the local planning authority prior to implementation and the condition limiting the level of noise. The conditions relating to the implementation of such equipment will need to be amended to 'prior to installation' rather than 'prior to commencement' as the business has already commenced.

7.10 Subject to the revised opening times, as recommended by the case officer, it is considered that the operation of the business will not have a significant detrimental impact on the amenity of the occupiers of the neighbouring properties in accordance with policies EN2 of the Core Strategy and ENV2 of the Draft Local Plan.

Car parking

7.11 The High Street is a relatively narrow road with car parking along one side of the road and double yellow line on the other side. Car parking is understood to be problematic especially in the evenings; although this does not present a highway safety issue.

7.12 The deli/cafe is located along the High Street and primarily serves the local population of Sutton. Due to the location of the business it is easily accessible to the majority of the population of Sutton without the need for the use of a vehicle. Additionally, as car parking is problematic in the evenings it is unlikely that customers will be inclined to drive to the business. The business can only accommodate a limited number of customers at a time due to the size of the venue. It is not considered that the extended opening hours will result in a generation of vehicles that would have a detrimental impact on car parking and is considered to be in accordance with policies S6 of the Core Strategy and COM7 of the Draft Local Plan.

Other matters

7.13 There are no external amendments proposed to the business and therefore there is it considered that there will not be any further impact on the visual appearance or character of the conservation. The proposed development is considered to be in accordance with policies EN2 and EN5 of the Core Strategy and ENV2 and ENV11 of the Draft Local Plan.

7.14 Concerns were raised over the future use of the business if extended opening times are permitted. At present, the business has a mixed use of A1 and A3, with ancillary A5. A mixed use means that the business is categorised as Sui Generis in the Use Classes Order which do not benefit from any permitted development rights. Therefore, any alternative use would require a further planning permission for Change of Use.

Conclusions

7.15 The applicant has provided details of why extended opening times are requested which are primarily focused around the viability of the business. The additional services that can be provided as a result of the additional opening times are recognised as having sustainability benefits with regards to lessening the need to travel and providing additional services to the village.

7.16 The business has potential to impact on the amenity of the neighbouring occupiers as a result of vehicular and pedestrian movements. It is considered that these movements can be expected in the evening at weekends but could be detrimental

on weekday evenings. As a compromise, the case officer has recommended the opening times be amended as follows: 07:30 – 19:00 Monday to Thursday, 07:30 – 22:00 Friday to Saturday and 10:00 – 16:00 each Sunday.

7.17 The above opening times are considered to be a reasonable compromise that would support a local business whilst protecting the amenity of neighbouring occupiers at the times when it can be expected for the High Street to be reasonably quiet. Subject to the amended opening times, it is considered that the proposal is in accordance with policies CS1, S6, EN2 and EN5 of the Core Strategy and GROWTH2, GROWTH5, ENV2, ENV11 and COM7 of the Draft Local Plan.

8.0 APPENDICES

8.1 Application reference: 13/00333/FUL officer's committee report

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
15/00091/VAR application file	Richard West Room No. 011	Richard West Planning Officer
13/00333/FUL application file	The Grange Ely	01353 665555 richard.west@eastcambs.gov.uk