

DELEGATED APPLICATION REPORT

Target Date: 26/11/21

Application No: 211635/FUL

Address: 355 Oxford Road

Proposal: Change of use of ground floor from cafe (Class E) to cafe and drinking establishment (Sui Generis)

Case Officer: Tom Hughes

Site Description and Surrounding Area

The application site comprises the ground floor of 355 Oxford Road, a two storey mid-terraced building located within Oxford Road West District Centre, forming part of its Key Frontage. A long single storey rear extension projects to the rear. The application submission states that the existing use of the unit is as a café. On an officer site visit the unit appeared vacant, with fascia signage relating to the pre-existing use as an events business premises. Regardless, officers are satisfied for the purpose of determining the application that the lawful use of the site falls within Class E.

Proposal

As stated on the application form and supporting statement, the proposal is for the change of use of the ground floor from a café (Class E) to a café and drinking establishment (Sui Generis). From the application submission, it does not appear that any physical changes are proposed to the unit to facilitate the change of use. As per the supporting statement, the use would be operational 11am-11pm daily.

Plans Considered

The agent supplied the following, received 01/10/21:

Planning Statement

Drawing No: PL-01 - Site Location

Drawing No: PL-03 - Block Plan

Drawing No: PL-05 - Existing Ground Floor Plan and Front Elevation

On 19/10/21 the agent was advised of several discrepancies between the plans and other documentation supplied, relating to the site address. Subsequently the agent supplied the following, received 19/11/21:

Planning Statement

Relevant Planning History

060751/FUL - Single storey rear extension to shop - Permitted 19/05/06

Consultation Responses

Neighbouring owners and occupiers were consulted by letter. A site notice was sent to the agent to display. One letter of representation was received, with regard to the following:

- Inconsistencies within the application submission relating to the site address

Reading Borough Transport Development Control

Raised no objections to the proposals.

Reading Borough Environmental Protection

Raised no objection to the addition of an alcohol offering to the café, but advised that a noise assessment would be required to determine the impact of the proposed use on neighbouring residential amenities.

Reading Borough Licensing

Raised concerns with the application submission, on the lack of clarity on the nature of the proposed use. Advised that if the intention was to run the premises as a café/restaurant with alcohol as an ancillary offering, they would have less concerns than if the intention was to operate as a wet led pub type premises. Considering existing issues on Oxford Road, a wet led premises would have a greater potential to undermine the licensing objectives due to the greater volumes of alcohol consumed. This considered with the intended terminal hour of 23:00 each day, would potentially result in a number of customers dispersing at the same time, adding additional pressure to Oxford Road.

Equality Act 2010

In determining this application, the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

Relevant Planning Policy and Guidance

The following local and national planning policy and guidance is relevant to this application:

National Planning Policy Framework

Reading Borough Local Plan (2019)

Policy CC1 - Presumption in Favour of Sustainable Development

Policy CC7 - Design and the Public Realm

Policy CC8 - Safeguarding Amenity

Policy EN15 - Air Quality

Policy EN17 - Noise Generating Equipment

Policy TR3 - Access, Traffic and Highway-Related Matters

Policy TR5 - Car and Cycle Parking and Electric Vehicle Charging

Policy RL1 - Network and Hierarchy of Centres

Policy RL3 - Vitality and Viability of Smaller Centres

Policy OU5 - Shopfronts and Cash Machines

Design Guide to Shopfronts SPD (2022)

Appraisal

Principle of change of use

During the course of the application the agent was asked to provide clarity on the nature of the proposed use. On the basis of the supporting statement, the proposed use seemed to have the type of offering expected at a restaurant: *'the leases would like to offer alcohol with the food such as wine and beer during lunchtime and in the evenings, as most customers like a drink with their meal'*.

Officers advised that the existing lawful use of the site was Class E, and that a restaurant also falls with Class E. Officers advised that a change of use to a restaurant would not constitute a material change, so if this was the intended use, planning permission would not be required and the application could be withdrawn. Officers further advised that as per the Use Classes Order, the use of a premises as a drinking establishment would be a principally 'wet led' use, which would differ from that set out above. No response has been received from the agent, so the decision has been taken to determine the application on the basis of the stated description for a use as a drinking establishment.

On 21st July 2020 the Government published The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, which came into force on 1st September 2020. Amongst other changes, the former Part A use classes were revoked and a new Class E (Commercial, Business and Service) was introduced. Class E covers the former use classes of A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes) and parts of D1 (non-residential institutions) and D2 (assembly and leisure). Drinking establishments now fall within the Sui Generis use class. Accordingly, the proposals are for a change of use from Class E to Sui Generis.

These amendments have severe implications for the application of Policy RL3, with the parts relating to retail uses now being redundant. Other parts of Policy RL3 do still apply, including the requirement for centre uses at the ground floor. A drinking establishment does constitute a centre use. On this basis, the proposed change of use is in accordance with the active parts of Policy RL3.

As Policy RL1 states, the vitality and viability of centres should be maintained and enhanced. The policy cites the importance of a diverse range of facilities within centres, but seeks to ensure that a strong retail element is retained. Due to the amendment of the Regulations, the LPA's control on retaining a significant retail element has been weakened. Nonetheless, ensuring the vitality and viability of centres remains is still of primary importance.

Despite that stated on the application form, the unit appeared vacant on the officers site visit. Bringing a vacant unit back into active use is an optimal way of aiding the vitality of a centre. A vacant unit makes little contribution to the attractiveness of the centre. While the principle of bringing a vacant unit back into active use is acceptable, the resultant imbalance in retail mix is regrettable. However, in the context of the amendments of the Regulations, the proposed change of use is not considered to cause significant detrimental harm to the vitality and viability of the Local Centre. Subject to other policy consideration outlined below, the principle of the change of use is on balance, acceptable.

Design and impact on the character of the surrounding area

No physical alterations are proposed. Were officers minded to recommend approval, further consideration would be given to improving the appearance of the site.

Impact on neighbouring amenity

A key consideration in determining the suitability of the proposals is ensuring that the development does not reduce the quality of the environment for others, particularly where it would affect residential properties. A drinking establishment may cause a detrimental impact to living environments in terms of noise and disturbance, crime and safety.

The site forms part of an established District Centre containing a number of noise generating uses both during the daytime and into the evening. A level of noise is to be expected from these uses, including to the proximate residential accommodation at upper floors. In assessing the suitability of the proposals, it is a question of whether the proposed use would cause a specific degree of harm. The proposed use would be noise generating in terms of activity into the evening through comings and goings, and the potential for customers to congregate outside of the premises. Without specific details being provided on the nature of the proposed use, officers cannot be satisfied that the level of noise generated by the proposed use will not cause significant harm to neighbouring amenity, and related further concerns in terms of crime, safety, and anti-social behaviour as a result of the consumption of alcohol on the premises. As no details have been forthcoming, it has not been demonstrated that no significant harm would be caused to neighbouring residential amenity or levels of crime and safety in the District Centre. The proposals are therefore contrary to Policy CC8.

Conclusion

The proposal has been assessed and found to be unacceptable as it is contrary to the identified policy and guidance. Due to insufficient information being provided, it has not been demonstrated that no significant harm would be caused to the living environment of existing residential properties. The application is recommend for refusal on this basis.

RECOMMENDATION

REFUSE