

DELEGATED PLANNING APPLICATION REPORT

Ward: Minster

App Ref: 221769/FUL

Address: 39 Berkeley Avenue, Reading, RG1 6JS

Proposals: Change of use of ground floor shop F.2 (former A.1) to takeaway (sui generis) and installation of an extraction chimney.

Case Officer: Marcie Rejwerska

Date received (valid from): 1 December 2023

Target Decision date: 26 January 2024

1. SITE DESCRIPTION

The application site comprises a ground floor retail unit on the south side of Berkeley Avenue. The existing unit forms part of an extension to 39 Berkeley Avenue and was originally built as an extension to the existing retail shop at 39 Berkeley Avenue. The unit is set back from the road with a shallow paved forecourt which is used for informal parking and refuse storage for the flats on the upper floors. The immediate surrounding area is predominately residential with the exception of the retail unit adjacent and a petrol station immediately across the road. Berkeley Avenue is a classified road (A4). The ground at the rear of the plot slopes down towards Boston Avenue.



Streetview of the application site taken from Google Maps.

2. PROPOSAL AND SUPPORTING INFORMATION

Planning permission is sought for the change of use of the ground floor unit to a hot food takeaway (sui generis) and the associated installation of an extraction chimney to the side elevation of the property. The applicant proposes a car-free development.

Plans considered:

Planning Statement [1 Right Plan], received 1 December 2023

00 Rev. A - Location Plan, dated November 2023, received 1 December 2023
12 - Existing Block Plan, dated November 2022, received 28 November 2022
11 - Existing Elevations, dated November 2022, received 1 December 2023
10 - Existing Ground Floor & Roof Plan, dated November 2022, received 28 November 2022
03 - Proposed Block Plan, dated November 2022, received 28 November 2022
02 - Proposed Elevations, dated November 2022, received 1 December 2023
01 - Proposed Ground Floor & Roof Plan, dated November 2022, received 28 November 2022
2308-34081 - Proposed Kitchen Vent, dated 24 August 2023, received 22 November 2023
BS4142 Plant Noise Assessment [Aran Acoustics], dated 2 November 2023, received 22 November 2023
Specification & EMAQ Report [Purified Air], dated 25 August 2023, received 22 November 2023

3. RELEVANT PLANNING HISTORY

39a Berkeley Avenue

010009 - New stairwell providing access to existing basement store to front of building. - Application refused

101214 - Replacement condensing units - Application permitted

39 Berkeley Avenue

920402 - Erection of domestic outbuilding - Application permitted

930877 - Proposed change of use of existing retail unit Class A1 to a takeaway restaurant Class A3 - Application refused

940618 - Change of use of existing retail unit Class A1 to a takeaway restaurant Class A3. - Application refused

990023 - Change of use of the premises on the ground floor only, from shop (A1) to the mixed use of A3 (Take-away) / A1 (Off licence) ground floor only - Application withdrawn

010547 - New stairwell providing access to existing habitable basement rooms to front of building. - Application refused

020838 - Two storey pitched roof rear extension - Application permitted

030315 - Two storey side extension to incorporate an extension to the ground floor retail (A1 use) floor space and a one bedroom flat at first floor level. - Application refused

040450 - Two-storey side extension to incorporate an extension to the ground floor retail (A1 use) floor space and a one bedroom flat at first floor level - Application permitted

050506 - Two storey rear extension - Application permitted

092029 - Change of use from A1 to A5 and erection of single storey rear extension - Application withdrawn

101819 - Change of use from A1 (shop) to A5 (hot food takeaway); and erection of cowl on east elevation - Decline to determine

37 Berkeley Avenue

221768 - Proposed single storey side and rear extensions. - Application permitted

4. CONSULTATIONS

Non-statutory:

RBC Environmental Health - Clarification requested of the submitted odour information. Noise mitigation conditions suggested.

RBC Transport Development Control - The proposed layout fails to demonstrate that it complies with the Local Planning Authority's standards in respect of vehicle parking. This could result in on-street parking/reversing movements on Berkeley Avenue, adversely affecting road safety and the flow of traffic, and in conflict with adversely affecting road safety and the flow of traffic, and in conflict with local plan policies TR1 and TR3 of the Reading Local Plan 2019.

Public:

The following addresses were consulted by letter.

39b Berkeley Avenue, Reading, RG1 6JS
39A Berkeley Avenue, Reading, RG1 6JS
37 Berkeley Avenue, Reading, RG1 6JS
43 Berkeley Avenue, Reading, RG1 6JS
27 Boston Avenue, Reading, RG1 6JU
29 Boston Avenue, Reading, RG1 6JU
31 Boston Avenue, Reading, RG1 6JU

A site notice was also displayed by the applicant.

1 letter of support was received.

20 letters of objection were received, citing concerns relating to:

- Odour from cooking
- Parking on site
- Increased traffic
- Highway safety - hazard for pedestrians and cyclists from parking and deliveries
- Litter and rodents
- Noise from use and potential customers
- Fire safety
- Overdevelopment of the site
- Excessive number of takeaways in the area
- Competition to nearby fish and chip shop

Officer note: the above concerns are addressed in the report, however, competition with other similar businesses in the vicinity is not a material consideration in this application.

5. LEGAL AND PLANNING POLICY CONTEXT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy

framework (NPPF) - among them the 'presumption in favour of sustainable development'. The following local and national planning policy and guidance is relevant to this application:

National Policy and Guidance

National Planning Policy Framework
National Planning Practice Guidance

Reading Borough Local Plan (2019)

CC1: PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT
CC5: WASTE MINIMISATION AND STORAGE
CC7: DESIGN AND THE PUBLIC REALM
CC8: SAFEGUARDING AMENITY
EN16: POLLUTION AND WATER RESOURCES
EN17: NOISE GENERATING EQUIPMENT
EM4: MAINTAINING A VARIETY OF PREMISES
TR1: ACHIEVING THE TRANSPORT STRATEGY
TR3: ACCESS, TRAFFIC AND HIGHWAY-RELATED MATTERS
TR5: CAR AND CYCLE PARKING AND ELECTRIC VEHICLE CHARGING
RL1: NETWORK AND HIERARCHY OF CENTRES
RL2: SCALE AND LOCATION OF RETAIL, LEISURE AND CULTURE DEVELOPMENT
RL3: VITALITY AND VIABILITY OF SMALLER CENTRES
OU5: SHOPFRONTS AND CASH MACHINES

SPG/SPD

Design Guide to Shopfronts (2022)
Revised Parking Standards and Design (2011)

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.

APPRAISAL

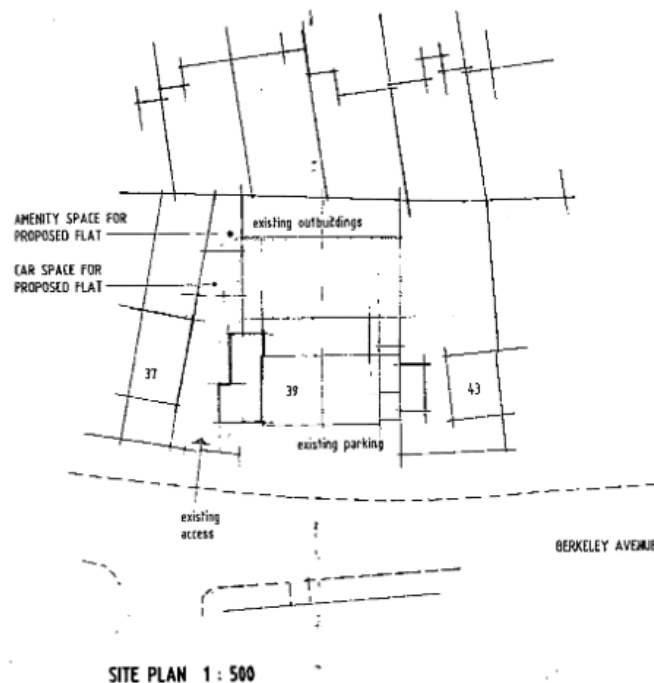
The main issues to be considered are:

1. Principle of development
2. Design and character
3. Amenity and pollution
4. Transport related matters

Principle of development

The application site has a complicated planning history which is important to establish in the first instance. Nos. 39 and 41 Berkeley Avenue are originally a pair of semi-detached residential properties converted to retail (now occupied by Costcutter). Over time, the site has been extended to the rear and to the side (where the unit subject to this application is located), together with outbuildings in the rear. The residential uses on this site are two flats on the upper floors, both accessed from the front elevation of the side extension.

In 2004 planning permission was granted for the two storey side extension to form a use class A1 retail unit as ancillary to the existing retail use at 39 Berkeley Avenue, and a flat above. This permission included a private amenity space for the flat at the rear of the site, and allocated parking at the rear of the site. This is considered relevant and a material consideration, as the amenity and parking space for this flat have not been provided or have been lost over time.



SITE PLAN 1 : 500
Approved site plan, app ref. 040450

The decision notice for application ref. 040450 also specifies that the new retail space created on the ground floor may only be used as an ancillary kitchen facility to the existing shop at 39 Berkeley Avenue, and not as a separate retail unit.

As such, to establish whether the principal of the proposed change of use to a hot food takeaway is acceptable, there must also be consideration made to the subdivision of the retail unit from its host at 39 Berkeley Avenue. Following a site visit, it appears that the retail unit within the extension has no internal access to the shop adjacent and provides no function to this use. The unit is currently vacant.

Policy RL2 (Scale and Location of Retail, Leisure and Culture Development) of the Reading Borough Local Plan (2019) is relevant, which outlines the expectations for the location of retail and requirements for proposed retail uses outside of identified centres. Specifically, *“Retail, leisure and culture development outside designated centres will only be allowed in those exceptional circumstances where the provisions of national policy are met. In these cases, proposals will need to demonstrate that a sequential approach has been adopted to site selection, and that there will be no adverse impact on existing centres in Reading Borough or elsewhere.”*

The application site is not located within any designated town or district retail centre, and justification for the choice of location for this development has not been demonstrated. Paired with the concerns for amenity and highway safety, it is clear that this location is not sustainable or appropriate for this proposal. The subdivision of the unit from its host is therefore not considered acceptable.

The existing use is described as F2 which is not accurate - the original permission for the erection of the unit is described as A1, a revoked use class replaced by the existing Class E. Use class F2 is described as a retail store selling essential goods (including food) where the premises do not exceed 280 square metres and there is no other such facility within 1000 metres - there are a number of other retail and foodstuffs stores and hot food takeaways within a 1000 metre radius of the site. There is therefore no special consideration given to the community element of the site to be retained.

The proposal is fundamentally contrary to Policy RL2 of the Reading Borough Local Plan (2019) and the Sequential Test outlined in paragraphs 90 to 95 of the NPPF (Dec 2023).

Design and character

Policy CC7 (Design and the Public Realm) states *“All development must be of high design quality that maintains and enhances the character and appearance of the area of Reading in which it is located.”*

The proposal includes no external alterations, barring the installation of a kitchen exhaust vent. Internally, the proposal includes a relatively small seating area which is common for hot food takeaways and implies that food may be consumed on site. There is an existing patio at the rear which is to be accessed from the kitchen; it is not clear what the proposed use of this patio is as there is a staircase leading down from the patio into the residential garden of no. 37 Berkeley Avenue adjacent.

Due to the minimal external and internal changes proposed, there is little to be said on the character and design of the site. It is unusual that there is no shopfront proposed but this could be addressed through a separate application.

Amenity and pollution

Policy CC8 (Safeguarding Amenity) states *“Development will not cause a detrimental impact on the living environment of existing residential properties or unacceptable living conditions for new residential properties, in terms of:*

- *Privacy and overlooking;*
- *Access to sunlight and daylight;*
- *Visual dominance and overbearing effects of a development;*
- *Harm to outlook;*
- *Noise and disturbance;*
- *Artificial lighting;*
- *Vibration;*
- *Dust and fumes;*
- *Smell;*
- *Crime and safety*

As well as immediate impacts, other aspects to which this policy applies will include matters such as hours of operation of businesses, and effects of traffic movements, particularly of heavy goods vehicles (HGVs).”

Policies EN16 (Pollution and Water Resources) and EN17 (Noise Generating Equipment) are also relevant.

The amenity impact of the proposal are considered both in terms of impacts associated with the use of the site as a hot food takeaway and in relation to the installation of a kitchen exhaust vent.

The proposed use would likely result in increased levels of noise associated with the comings and goings of customers, some of whom would be likely to consume their food on, or close to the site. Although on a main road, the prevailing use of the area remains residential and the site is surrounded by dwellings. As such, considerations must be made to the neighbouring residential properties, particularly the flat above, but also those properties in the vicinity. Condition and the noise associated with customers is not easily controlled and would be inherent to the nature of the use proposed. The proposed hours of use, until 2200hrs would result in traffic, vehicle movements, comings and goings and people congregating well into the night. It is considered that this would be a marked change from the existing situation and would be harmful to the amenity of residents.

The other common amenity concerns associated with hot food takeaway use relate to odour. Limited information has been submitted with clarification requested by the Environmental Health team, which has not been provided. This is another matter which could be controlled by condition, as the location and siting of the kitchen exhaust vent is not considered an issue in itself.

Lastly, consideration must be made to vermin proofing of the site which is an identified issue associated with any commercial food uses. This is another matter which could be controlled via condition.

Insufficient information has been submitted to demonstrate that neighbouring residential properties would not be put at risk of harm from the proposal, however, the matters could be addressed through various conditions and as such it is not considered reasonable for this to form a reason for refusal.

Transport related matters

The application site is situated on the A4 Berkeley Avenue which is a classified highway and a main transport corridor in and out of Reading, as it leads onto the A33 and the M4. In accordance with the Council's current parking standards the proposed take away unit would require 1 parking space per 50sqm, the size of the unit is 104.50sqm, and therefore 2 parking spaces would be required. The seating area demonstrated on the proposed floor plan also indicates that food could be consumed on site, and as such further parking could be required for customers.

The site has an existing paved forecourt, however, this is already commonly used for parking either by Costcutter customers or residents of the flats above. The forecourt itself is too shallow to provide adequate parking space and this is evident from the parked vehicles overhanging onto the public footpath. Despite this being an existing arrangement, the intensification of the use of the site would likely increase risk to public safety of pedestrians and other road users, including cyclists using the cycleway, which is not acceptable.

Refuse storage has been proposed on the plans to be stored on the forecourt, which increases further competition for the use of this forecourt and would appear unsightly. The forecourt is also already used for residential bin storage for the flats above. This arrangement is therefore not considered appropriate. The only other feasible arrangement for refuse storage for the proposed takeaway would be within the patio at the rear, which would require taking the bins through the shop itself to be collected from the roadside, which is likely not an ideal solution. The applicant has also suggested moving the bins from the patio via the side of the property, however, this falls outside the application site and requires movement through the rear/side garden of no. 37 Berkeley Avenue, which is not an appropriate solution.

No details of deliveries to the site have been provided and it is unclear where deliveries could be made, although a plan for deliveries and servicing could be secured via condition.

Overall, the proposal fails to demonstrate adequate parking provision and refuse storage, and the intensification of the site is likely to pose risk to the public safety of pedestrians, cyclists, and other highway users.

Conclusion

The proposal has been assessed in line with the adopted policies as outlined above, and is considered contrary to Policies RL2, TR3 and TR5 of the Reading Borough Local Plan (2019).

RECOMMENDATION

REFUSE

Due to the following reasons:

1. The proposed development, by reason of the nature of the use, including increased vehicle movements, comings and goings, and customers congregating, together with the hours of opening, would result in an increased level of disturbance to occupiers of neighbouring dwellings with consequent harm to their residential amenity. As such the proposal is contrary to Policy CC8 of the Reading Borough Local Plan 2019 and Paragraph 135 of the NPPF (December 2023).
2. The proposal fails to demonstrate exceptional circumstances to justify the location of the proposed hot food takeaway on this site and is therefore, in principle, contrary to Policy RL2 of the Reading Borough Local Plan (2019) and paragraphs 91 and 95 of the National Planning Policy Framework (December 2023).
3. The intensification of the use of the site and the nature of the use would increase risk to public safety, including that of pedestrians and other road users, due to vehicles stopping on the carriageway and cycleway, the footway, or the paved forecourt, resulting in harm to the safety of road users including pedestrians and cyclists. In addition the proposal fails to provide adequate parking provision for staff and customers in terms of both the number of parking spaces and the inadequate space available, it also fails to demonstrate appropriate arrangements for refuse storage and collection. As such the proposal poses a public safety risk to highway users, contrary to Policies TR3 and TR5 of the Reading Borough Local Plan (2019) and paragraph 116 of the NPPF (December 2023).