

Present: Councillor Naomi Twedde (*in the Chair*),
Councillor Bob Bushell, Councillor Biff Bean, Councillor
Bill Bilton, Councillor Chris Burke, Councillor
Gary Hewson, Councillor Bill Mara, Councillor
Rebecca Longbottom, Councillor Mark Storer, Councillor
Edmund Strengiel and Councillor Calum Watt

Apologies for Absence: Councillor Liz Bushell

32. Confirmation of Minutes - 8 September 2021

RESOLVED that the minutes of the meeting held on 8 September 2021 be confirmed, subject to the following text under Minute Number 27 '192 West Parade, Lincoln, paragraph C to be deleted due to a clerical error:

'advised that the land in between the rear of these properties and the site formed the service yard to 116 High Street, including a single storey metal clad store and some air conditioning units, to be accessed from Gaunt Street between no's 7 and 11 across the existing service yard'

33. Declarations of Interest

Councillor Biff Bean declared a Personal and Pecuniary Interest with regard to the agenda item titled 'Land to the Rear of 10 Steep Hill, Lincoln'.

Reason: He knew one of the objectors to the planning application as a close friend. He left the room during the consideration of this item and took no part in the discussion and vote on the matter to be determined.

Councillor Rebecca Longbottom declared a Personal and Pecuniary Interest with regard to the agenda item titled 'Land to the Rear of 10 Steep Hill, Lincoln'.

Reason: Her own property overlooked the property the subject of the proposed application for development.

She left the room during the consideration of this item and took no part in the discussion and vote on the matter to be determined

34. Work to Trees in City Council Ownership

Dave Walker, Arboricultural Officer:

- a. advised the Committee of the reasons for the proposed works to trees in the City Council's ownership and sought consent to progress the works identified, as detailed at Appendix A of his report
- b. highlighted that the list did not represent all the work undertaken to Council trees, it represented all the instances where a tree was either identified for removal, or where a tree enjoyed some element of protection under planning legislation, and thus formal consent was required
- c. explained that ward councillors had been notified of the proposed works.

RESOLVED that the tree works set out in the schedules appended to the report be approved.

35. Update Sheet

An update sheet was tabled at the meeting, which included:

- Additional comments received in relation to Minute Number 4(c) – 5 Silver Street, Lincoln,
- Additional photographs submitted plus an updated block plan in relation to Minute Number 4(a) - 69 Carholme Road, Lincoln
- Updated elevational treatment plans in relation to Minute Number 4(b) - Land to the Rear of 10 Steep Hill, Lincoln

RESOLVED that the Update Sheet be received by Planning Committee.

36. Applications for Development
37. 69 Carholme Road, Lincoln

The Assistant Director for Planning:

- a. advised that the application proposed the change of use of the property at 69 Carholme Road from an existing Guest House (Class C1) to 6 No. one bedroomed flats (Class C3) and the erection of a 2-storey rear extension and associated external alterations
- b. described the application property, also known as Brancaster House; an attractive 2 storey mid-terraced townhouse with frontage onto Carholme Road, remaining unoccupied for some time
- c. advised that the current lay-out arranged over three floors comprised an entrance hall, living room, dining room, reception room, kitchen, conservatory, attached one-bedroomed annexe with living room and shower to the ground floor, with three bedrooms and bathroom to the first floor and two further bedrooms to the second floor
- d. confirmed that the property fronted onto Carholme Road with access to the rear via Wellington Street; the surrounding area was predominantly residential with a mixture of guest houses, residential dwellings, Houses in Multiple Occupation (HMO's) and several commercial properties on Carholme Road, which served as a busy traffic route into the City Centre, relatively close to the University of Lincoln
- e. referred to a previous planning application for the property for change of use from Guest House (Class C1) to a 9 bedroomed HMO which was refused planning permission on 9 January 2020
- f. provided details of the policies pertaining to the application, as follows:
 - Policy LP1: A Presumption in Favour of Sustainable Development
 - Policy LP10: Meeting Accommodation Needs
 - Policy LP26: Design and Amenity
 - Policy LP37: Sub-Division and Multi-Occupation of Dwellings within Lincoln 86

- National Planning Policy Framework
- g. advised Planning Committee of the main issues to be considered as part of the application to assess the proposal with regards to:
- Planning Policy Context
 - Effect upon the Residential and Local Amenity
 - Effect on Highway Safety
 - Flood Risk
 - Other Matters
- h. outlined the responses made to the consultation exercise
- i. referred to the Update Sheet tabled at the meeting which included additional photographs submitted plus an updated block plan in respect of the proposed development
- j. concluded that:
- The extension and conversion of the property to six flats was acceptable in principle in this location.
 - Neither the use nor the external works would cause undue harm to the amenities of neighbouring properties.
 - A Section 106 agreement to restrict the occupation of the flats by students would further protect the residential amenities of neighbours and the wider community.
 - Officers were satisfied that the site provided adequate provision for external communal areas for amenity as well as bin and cycle storage.
 - Technical matters relating to flood risk and air quality were to the satisfaction of the relevant statutory consultees.
 - The proposals would therefore be in accordance with the requirements of Central Lincolnshire Local Plan Policies LP10, LP26 and LP37 and guidance within the National Planning Policy Framework.

Mr T Shelton, local resident, addressed Planning Committee in objection to the application, covering the following points:

- He lived next door to the application site.
- The boundary wall to the proposed development which the applicant wished to remove was in fact his garden wall. A 6-foot-high fence was proposed in its place; however, his garden was 2 feet higher than the application site, reducing the height difference to 4 feet. The garden was used regularly for barbeques, drying washing, dog exercising, and relaxing. The proposals would affect the privacy of the household in this respect. The boundary wall should be retained for this reason.
- The gutter/downpipe from his property which discharged onto the roof of the existing extension next door (shown in the photograph on the Update Sheet) would need to be replaced at the builder's cost, to facilitate the removal of rainwater.
- Sound proofing was required to avoid transfer of noise through internal walls.

- If it was decided that the boundary wall was to be replaced by a fence, he requested the best side of the fence be placed his side as it did represent his boundary.
- In summary his concerns related to the effect on the privacy of his household should the development go ahead and noise issues.
- He also wished to put on record that he had received no contact from anyone at the Council or acknowledgement of the letter he submitted. He was forced to chase the Council to ask to speak this evening.

The Committee considered the content of the report in further detail.

The following comments emerged from discussions held:

- There was already sufficient student accommodation in the area; it was pleasing to see that an S106 agreement restricting accommodation for students would be signed should the development be granted planning permission.
- The assumption within the officer's report that the property was unlikely to return to a family home was questioned. There were two recent cases where offices had reverted to family homes and another from an HMO.
- It was sensed that local residents were questioning the spirit of Article 4 here. This definitely was not the case. The Council viewed its obligations very seriously.
- Surely the best way forward regarding the boundary wall was through intelligent conversations between the developer and local residents to come to an agreement to the satisfaction of both parties.
- There was a high concentration of development in the area and this proposal would add to this.

The following questions emerged from discussions held:

- Question: Was the applicant being relied on to prevent students from residing in these properties as a one bedroomed flat without parking seemed to 'fit the bill' for student living very nicely?
- Question: It was noted that two of the proposed flats would be 2 square metres below nationally agreed space standards. At what point did we decide was an insufficient size?
- Question: How far were the flats below nationally agreed space standards?
- Response by Chair: By two metres, however only two of the six flats.
- Question: How could we monitor that the flats were not occupied by students?
- Question: There was no plan for parking in front of the flats. Would there be an element of landscaping included as part of the scheme?
- Question: How long had the property been empty? This would be a substantial property for a family home. Flats may be a better option for long time use.
- Question: What use had the property held before it was a Guest House?
- Question: Why did the Upper Witham Drainage Board refer in its representation to 7 one-bedroomed flats and not six as per that applied for?
- Question: Could officers give any advice to the speaker on his concerns regarding the boundary wall?

The Assistant Director of Planning offered the following point of clarification to members:

- In terms of enforcement of the S106 agreement; any action would be dependent on an initial complaint being received which would then be investigated. An Enforcement Officer would make a site visit. The local authority had more rights in respect of entry powers for enforcement investigations than the police. There was also the potential for Council tax records to be used as evidence of residency as students were exempt from paying this tax.
- In terms of the size of the flats, only two were 2 square metres below nationally prescribed space standards, as confirmed by the Chair earlier. These standards issued by the Government were guideline figures. They were not part of our policy. In order to be policy, they would need to be in the Local Plan and evidenced accordingly, and this was not the case. Planning Officers were aware of this standard and strived to adhere to it whenever possible. These two flats were slightly below this standard; however, it was considered they would still provide a reasonable level of occupancy for residents.
- There was no specific landscaping design proposed, however, this matter could be addressed via a condition of grant of planning permission if members were so minded.
- In terms of a property of this size, although there were some exceptions, our professional view as Planning Officers generally in the context of use as a family home was that such a property would struggle to remain viable on the open market. This property had been for sale for some time. An application was received over a year ago to request permission for conversion to an HMO.
- In terms of the history of the building, his best estimate was it originated as a single-family residency at one stage, although he was unable to confirm this.
- The number of flats to be included in the development had been reduced to six through negotiation between officers and the applicant.
- The ownership of the boundary wall came under the jurisdiction of the applicant. If so minded, members could impose an additional condition on the grant of planning permission requiring boundary treatment works subject to negotiation and agreement between both parties.

Motions were proposed, seconded and:

RESOLVED that the following requirements be added as additional conditions subject to planning permission being granted.

- Landscaping condition
- Engagement between officers and the applicant to secure adequate boundary treatment to the agreement of both parties to be imposed.

RESOLVED that planning permission be granted subject to the signing of a Section 106 agreement that the approved flats were not occupied by students and not entitled to resident parking permits, and subject to the following conditions.

Conditions

- Development to commence within 3 years

- Development to be in accordance with the plans
- EV Points implemented before use commenced
- Permitted Development for new openings removed
- Construction hours restricted
- Details of all boundary walls and fences, including materials shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented before the development is first brought into use, and maintained on site in perpetuity.
Reason: In the interests of visual amenity, privacy, and security and to ensure that the amenities of the area were not adversely affected by the proposed development.
- The development shall not be occupied until a landscaping scheme has been submitted to and approved by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of the landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: In the interests of visual amenity and in accordance with Section 197 of the 1990 Act which required local planning authorities to ensure, where appropriate, that adequate provision was made for the preservation or planting of trees.

38. Land to the Rear of 10 Steep Hill, Lincoln

(Councillors Bean and Longbottom left the room during the consideration of this item, having declared a personal and pecuniary interest in the matter being debated. They took no part in the discussion or vote on the matter to be determined.)

The Planning Team Leader:

- a. advised that the application sought permission to build two new houses on land to the rear of 10 Steep Hill, and for demolition of two garage buildings
- b. advised that the garden and land associated with this property extended through from Steep Hill to Michaelgate, currently occupied by several empty and derelict former garages
- c. described the land on this part of the historic hillside as terraced, the application site was reasonably level, the terrace above retained by a boundary wall at the northern edge of the application site, and a wall on the south side of the site retaining the application site and forming the terrace on which the house known as 'Strelitzia' sat
- d. highlighted the configuration of the two proposed new houses; a two storey contemporarily designed house at the back edge of the footpath to Michaelgate, and then a second more traditionally designed and proportioned house to the east, at one and a half storeys, the upper floor being within the pitched roof

- e. confirmed that part of the site was situated within an area being a Scheduled Monument, based on the Roman Lindum Colonia, and that the whole of the site fell within the Conservation Area
- f. reported that access to both plots would be from Michaelgate, the upper floor extended over the ground level drive from the property to the west leading through the site to the house to the east, which meant that both houses would have off-street parking
- g. referred to a further planning application for the property for erection of two detached dwellings and demolition of two garage buildings (Listed Building Consent) with status 'Pending Decision'
- h. provided details of the policies pertaining to the application, as follows:
 - Planning (Listed Buildings and Conservation Areas) Act 1990 – sections 16, 66 and 72.
 - National Planning Policy Framework (NPPF) – particularly: para 11 – Presumption in Favour of Sustainable Development; para 130 – Achieving Well Designed Places; para 183 and 184 – Ground Conditions and Pollution; Chapter 16 – Conserving and Enhancing the Historic Environment, particularly paras 199, 201, 202, 203.
 - Central Lincolnshire Local Plan – particularly: Policy LP25 The Historic Environment and Policy 34 Design and Amenity Standards.
- i. advised Planning Committee that as the application site was in a prominent location in the heart of the City, which sat on the historic hillside, consequently the proposals raised a number of issues with regards to:
 - Compliance with National and Local Planning Policies;
 - Impact on the Character and Appearance of the Conservation Area and Wider Views of the Hillside;
 - Impact on the Amenity of Neighbouring Properties;
 - Impact on Slope Stability;
 - Impact on the Scheduled Monument and Archaeology;
 - Other Matters.
- j. outlined the responses made to the consultation exercise
- k. referred to the Update Sheet tabled at tonight's meeting which included updated elevational treatment plans in respect of the proposed development
- l. requested that:
 - An additional proposed condition be added to the officers' recommendation subject to grant of planning permission, to deal with any unexpected contamination of land found during construction,
 - Proposed condition 5 be amended to read: 'Works to be Undertaken in Accordance with Archaeological Written Scheme of Investigation
- m. concluded that the development of the two houses would change the appearance of this part of the City but the designs had been developed in

such a way that it was considered that the change that would result would not be harmful to the area, to the heritage assets in the area and would not be unacceptable to the amenity of the neighbouring residents.

Mr David Butler, local resident, addressed Planning Committee in objection to the planning application, covering the following points:

- He thanked members of Planning Committee for allowing him the opportunity to speak.
- The published Heritage Impact Assessment for the proposed development stated that the impact on the heritage asset was neutral. The impact on the heritage asset was actually negative in a number of ways.
- How had this proposed development been allowed to progress?
- His concerns related to:
 - Impact on local residents
 - Impact on his property
 - Impact on visitors to the city
- In terms of available parking space within the scheme, only 2/3 spaces had been allowed for although there were 8 bedrooms within the proposed development.
- Michaelgate was situated halfway up Steep Hill. Other car users/visitors would be forced to street/pavement park which restricted other residents. Those who couldn't park at the properties would need to reverse out causing danger to pedestrians etc.
- His home would be dominated by overbearing brick walls directly at the boundary to his house; 29 metres of light would be lost due to the new build's walls/roof structure.
- It was not valid to allow a development to take place which would reduce the outlook for his household and reduce outlook/privacy to his garden.
- The development had a negative impact on the amenity of his household members as direct neighbours of the proposed scheme.
- In terms of heritage assets in Conservation Areas, views of the Cathedral could only be lost once. Members would be judged on this loss should planning permission be granted.
- These were important views of the Cathedral, a symbolic building to our City and a key element to the prosperity of the local economy.
- Policy LP29 supported the protection of potential dominance and approach views to the Cathedral/Castle skyline.
- Issues of scale/massing.
- He urged members to consider his comments and that of other objectors further rather than disregard them for the sake of an open market development.

Councillor Neil Murray addressed Planning Committee as Ward Advocate representing local residents. He covered the following main points:

- His heart had sunk when he saw this planning application.
- He had been a Councillor for a long time. He had been asked by residents and visitors how Strelitzia had managed to get planning permission. The building was an embarrassment to him even though he had not been involved in the decision.
- This proposed development was a large block of brick with no attractive features, it sat right on the edge of the footpath, with a smaller property 'squashed' in behind.

- If granted planning permission, views of the Cathedral would be spoilt.
- The development lacked any aesthetic merit.
- The development did nothing to enhance the area.
- It represented overdevelopment. Two buildings were proposed on the footprint of the site.
- The character of the area would not be enhanced in any way.
- He hoped members would consider very carefully the objections from local residents, together with impact on the views onto Michaelgate and our beautiful Cathedral.
- He hoped members would not make a similar mistake tonight.

John O Donohue, joint applicant, addressed Planning Committee in support of the application, covering the following main points:

- He thanked Planning Committee for allowing him the opportunity to speak.
- He apologised for the absence of Tom Gumbrell, joint applicant, who would normally attend to speak; he was recovering from COVID.
- He thanked Planning officers for their time and commitment to extensive pre-application discussions.
- He also thanked them for their willingness to continue working during the lockdown period.
- The application site was currently a blight on the landscape and suffered from incidents of anti-social behaviour.
- Two cars had been damaged only the previous week.
- The proposed development aimed to restore the street view of the site and prevent further anti-social behaviour.
- Two family homes were proposed for the site; a complicated and expensive construction was involved here.
- He thanked those neighbours who had supported the scheme and those who had expressed their views as part of the consultation process.
- The planning application was now more robust due to comments received.
- Concerns made by objectors regarding access/failure to consider the character of the district were not real.
- It would be a great honour to build two quality houses on this site, at a wonderful location in a beautiful city.

The Committee considered the content of the report in further detail.

The following supportive comments emerged

- Strelitzia had looked magnificent in the sunshine this afternoon.
- This was an opportunity to build on a vacant site.
- Officers had worked very hard alongside the applicant to come up with mediation measures to arrive a potentially acceptable scheme, although there were still issues of the Ancient Scheduled Monument to be resolved, and Heritage England to be consulted on the proposals.
- The Highways Authority had not raised any objection to the scheme and there looked to be adequate parking on site.
- Views of the Cathedral were referred to in many planning applications.
- The design was objective.
- Any development could potentially influence peoples' amenities.
- Heritage England had advised on further details of the scheme which were covered by the conditions of grant of planning permission.
- A property to the north of the site had recently undergone an extension.

- Recent anti-social behaviour on the site had caused £5,000 worth of damage.
- This was an ideal opportunity for development of the site.
- We must move with the times.
- There were still carbon zero friendly/ecological considerations to take into account.

The following concerns emerged from discussions held:

- The design of this building with incorporating a flat roof was not in keeping with the character of the Cathedral Quarter.
- Neither was Strelitzia.
- It was concerning to see comments from Lincoln Civic Trust that there should be only one property on this application site.
- Lincoln Civic Trust were also concerned about the loss of green space.
- Concerns regarding design/size of the build.
- Concerns regarding potential parking issues.
- Should the application be approved it would be controversial in terms of architectural design/not aesthetically pleasing.
- A future improved application should be submitted.
- We all had a duty to protect our views of the Cathedral/ consideration of our architectural heritage, as quoted by Bishop John Saxby.
- There had been many objections received from people who didn't even live in the area.
- The design of the building had been criticised as 'horrendous'.
- There were still carbon zero friendly/ecological considerations to take into account. As a carbon zero city we should always look at materials used/benefits to the local area in this respect.
- We may need to change the way properties were built moving forward, not just by design but how they were made

The Chair asked whether there would be a landscaping condition.

The Planning Team Leader advised that there was not always a great deal of land available for landscaping in an urban area as this was considered to be the case here.

A motion was proposed, seconded, put to the vote and;

RESOLVED that planning permission be refused.

Reasons for refusal of planning permission were discussed by Members.

Reasons for refusal were proposed, seconded, put to the vote, and **RESOLVED as follows:**

Reasons

1. The design of the houses as proposed was not in keeping with the character and appearance of the conservation area and was therefore contrary to the provisions of Policy LP26 and Policy LP29 of the Central Lincolnshire Local Plan and paragraph 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development as proposed did not provide any significant level of garden space to either new dwelling appropriate to the character and appearance of the surrounding area and conservation area. This was contrary to the provisions of Policy LP26 and paragraph 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

39. 5 Silver Street, Lincoln

(Councillors Bean and Longbottom re-joined the meeting.)

The Assistant Director for Planning:

- a. advised that the application sought planning permission to change the use of the ground floor of the property at 5 Silver Street, Lincoln from a betting shop (Sui Generis) to a hot food take-away (Sui Generis)
- b. reported on the property's location on the south side of Silver Street, a three-storey building with a shop front at the ground floor and further shop units to both sides of the building, situated in Lincoln's Primary Shopping Area
- c. confirmed that the site was located within Conservation Area No.1-Cathedral and City Centre
- d. provided details of the policies pertaining to the application, as follows:
 - National Planning Policy Framework
 - Policy LP33: Primary Shopping Area and Central Mixed-Use Area
 - Policy LP25: The Historic Environment
- e. advised Planning Committee of the main issues to be considered as part of the application to assess the proposal with regards to:
 - Principle of Development
 - Visual Amenity
 - Impact on Neighbours
 - Technical Considerations
- f. outlined the responses made to the consultation exercise
- g. referred to the Update Sheet tabled at tonight's meeting which included an additional comment received in relation to the planning application
- h. concluded that:
 - The proposed use was considered to be an acceptable use in this location as set out in the Local Plan. This was subject to certain criteria being met to ensure that the proposal would have no adverse impact on the amenity currently enjoyed by existing neighbours.
 - The applicants had submitted satisfactory information to evidence that such impacts had been considered and addressed.

Mr Leo Scott Smith, on behalf of Dominic O'Malley, addressed Planning Committee in objection to the planning application, covering the following points:

- He worked as CEO of a young technology company which had recently moved into the building at 5 Silver Street Lincoln.
- He was also Vice-Chair of Lincoln Town Deal Board.
- The reason for making an objection to this planning application was due to his company having recently moved into 5 Silver Street offices after spending £30,000-£40,000 on its renovation, completed February 2021.
- An Art Gallery operated from the floor above them which promoted art shows for the University of Lincoln.
- He had spent some time in the past residing in student houses located above take-away businesses.
- The operation of the hot take-away extraction fans would be loud and carry an unpleasant smell.
- The company had rejected other locations for their new office space due to similar reasons.
- The company would be forced to move away from the City if this planning application was granted.
- This would result in the removal of a company which had contributed greatly to Lincoln's economy in terms of technological expertise.
- In terms of planning perspective, the proposed use of the ground floor of the building would not provide the business operator with adequate space for waste facilities.
- The proposal represented a poor standard of design.
- The building was very old, separation of floors was organised via a dropped ceiling and wooden floorboards which allowed any smells to penetrate easily.
- The extraction fans would block access into his office space.
- There was inadequate space for provision of wheelie bins to facilitate the operation of the take-away.
- The option for members to determine here was either the retention of an Art Gallery/Technology business in the City or another hot food take-away in the area.

The Committee considered the content of the report in further detail.

The following comments emerged in support of the planning application

- The Committee was limited in its powers by planning law.
- Conditions may prove sufficient to control the operation of the take-away business, although concerns raised by the business operating above were understood.
- Waste room facilities to the proposed accommodation were shown as present on the floor plans.
- Guidance from the Environment Officer pointed to adequate extraction facilities.

The following concerns emerged in relation to the planning application

- It was important to protect jobs in the city There were already 1.5 hot food take-away's per 1,000 people higher than average in the area. It was questionable whether we needed another.
- There were plenty of hot food take-aways in the area, this high-tech business deserved a space to work in the City Centre.

- There was little detail provided by the Applicant to support the planning application, for example, design and access statements to mitigate potential adverse impacts from the operation of the new business on local amenity.
- The change of use would be detrimental to the occupants of nearby properties/the offices above and harmful to the environment.

Members asked:

- Why wasn't there an up-to-date police response included in the agenda pack.
- Why was this application before Planning Committee?
- Why was the applicant not present this evening to speak?

The Chair advised that the applicant had not taken up his opportunity to respond.

The Assistant Director of Planning provided the following points of clarification to members:

- This planning application had come to Committee due to the number of objections received as part of the consultation process. It was unusual to receive so many responses to this type of proposal.
- The main issues raised related to fume extraction/storage/waste mythology.
- Environmental Control Officers were satisfied with the scheme in terms of measures proposed in mitigation against noise/fume extraction.
- Should there become a problem it could be dealt with via Statutory Nuisance legislation.
- Following consultation with the Environmental Control Officer, Planning officers were satisfied with the proposed development subject to the recommended conditions being imposed.
- In terms of the principle of use, Local Plan Policy stated this type of business was acceptable in a Mixed-Use Area.
- There were other considerations here in respect of impact on the vitality and viability of the local area. It was the gift of members to determine whether they considered that this balance had been breached.
- The response from Lincolnshire Police contained within the agenda pack was a clerical error. It referred to another application.

Members queried whether a condition should be imposed relating to the dropped ceiling to prevent fume penetration and asked what percentage of smell would be taken away by the extraction system.

The Assistant Director for Planning responded as follows:

- It was unlikely for a solution to be achieved which removed 100% of smells from the operation of a fume extraction system. Impact was dependent on the type of use of the premises and at what time of day/night the business was in operation.
- There was no restriction imposed on the hours of operation of the premises here; although hot food take-aways tended to open late at night he was not aware of its hours of operation.
- There was no evidence of potential issues concerning fume extraction through the floors. This was normally controlled by insulation material.

Should there be any problems this would be picked up through the legislative powers of the Environmental Officer.

Members further considered the impact from the operation of the business on the viability of local businesses as they felt this was a valid concern.

The Assistant Director for Planning advised that vitality/viability of the Central Mixed-Use Area/Conservation Area could be considered as a material planning concern dependent upon the degree of positive/negative impact imposed from the proposed operation of the business.

A motion was proposed, seconded, put to the vote and;

RESOLVED that planning permission be refused.

Reasons for refusal of planning permission were discussed by Members.

Reasons for refusal were proposed, seconded, put to the vote, and **RESOLVED as follows:**

Reasons

- 1) The proposed use would be detrimental to the vitality and viability of the mixed-use character of the area due to the compounding effect when combined with the number of existing hot food takeaways in the locality. This resulting imbalance in the mixed-use nature of the area would be contrary to policy LP33
- 2) The applicant had failed to satisfactorily demonstrate that fume extraction had been adequately addressed. The result would be undue harm to the amenities of the uses above and adjacent the application site, contrary to policy LP33