

Application Number:	2021/0870/FUL
Site Address:	137 High Street, Lincoln
Target Date:	25th February 2022
Agent Name:	MDK Architects Ltd
Applicant Name:	Mr Yusuf Ibrayam
Proposal:	Change of use from Retail (Use Class E) to Hot Food Takeaway (Sui Generis) and installation of extraction flue (Retrospective) (In accordance with revised plans received 17th December 2021).

Background - Site Location and Description

The application is for retrospective planning permission for the change of use from retail (Use Class E) to hot food takeaway (Sui Generis) and installation of an extraction flue to the rear. The use has not yet commenced but, the applicant has installed the extraction flue and air conditioning units to the rear, this forms the retrospective element of the application.

The application property is 137 High Street part of a former Co-Operative store built in 1892. The building has a traditional shop front and is part of a larger building of three units at ground floor. The premises is located on the west side of High Street. The rear of the property is accessed via Tanner's Lane which leads to Tanner's Court and the yard to the rear of Nos. 137-141 High Street.

The building is located with Conservation Area No. 6 'West Parade and Brayford'.

Site History

No relevant site history.

Case Officer Site Visit

Undertaken on 9th December 2021.

Policies Referred to

- National Planning Policy Framework
- Policy LP25 The Historic Environment
- Policy LP26 Design and Amenity
- Policy LP33 Lincoln's City Centre Primary Shopping Area and Central Mixed Use Area

Issues

To assess the proposal with regard to:

- Planning Policy
- Consultation Responses
- Principle of the Use
- Visual Amenity and Character and Appearance of the Conservation Area
- Impact on Neighbouring Uses

- Highway Safety

Consultations

Consultations were carried out in accordance with the Statement of Community Involvement, adopted January 2018.

Comments have been received as part of the consultation process. They can be viewed in full online at [2021/0870/FUL | Change of use from Retail \(Use Class E\) to Hot Food Takeaway \(Sui Generis\)\(Retrospective\)\(Revised description and plans\). \(In accordance with revised plans received 17th December 2021\). | 137 High Street Lincoln Lincolnshire LN5 7PJ](#) or at the end of this report.

Statutory Consultation Responses

Consultee	Comment
Highways & Planning	Comments Received
Environmental Health	Comments Received
Lincolnshire Police	Comments Received

Public Consultation Responses

Name	Address
Mr Hikmatyar Hutak	7 Moor Street Lincoln Lincolnshire LN1 1PR
Miss Elizabeth Hackney	Speedframe 139-140 High Street Lincoln LN5 7PJ
Mr Ernest Pollard	30 Tanners Court Tanners Lane Lincoln Lincolnshire LN5 7AG
Alex	376 High Street Lincoln Lincolnshire LN5 7RY

Hama	368 High Street Lincoln Lincolnshire LN5 7RN
Hasan	127 High Street Lincoln Lincolnshire LN5 7PJ
Samir Alim	129 High Street Lincoln Lincolnshire LN5 7PJ
Yordan Apastolov	Flat 128 High Street Lincoln Lincolnshire LN5 7PJ
Abtul Latif	370 High Street Lincoln Lincolnshire LN5 7RU
Shamutan	118 High Street Lincoln Lincolnshire LN5 7PR
Kemal Koc	Flat 131 High Street Lincoln Lincolnshire LN5 7PJ
Kublilay Yilmaz	131 High Street Lincoln Lincolnshire LN5 7PJ
Mustafa Mehmed	128 High Street Lincoln Lincolnshire LN5 7PJ

Rakip Armani	Flat 128 High Street Lincoln Lincolnshire LN5 7PJ
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Consideration

Planning Policy

Paragraph 11 of the revised NPPF outlines that decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay.

Paragraph 81 states that 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.

The application is for the change of use of a centrally located retail unit within Conservation Area No. 6 (West Parade and Brayford) and therefore Policies LP26 - Design and Amenity, LP33 - City of Lincoln Central Mixed Use Area and LP25 The Historic Environment of the Central Lincolnshire Local Plan are entirely relevant.

Policy LP26 'Design and Amenity' is permissive of alterations to existing buildings provided the siting, height, scale, massing, and form relate well to the site and surroundings, and duly reflect or improve on the original architectural style of the local surroundings; and use appropriate high-quality materials, which reinforce or enhance local distinctiveness, with consideration given to texture, colour, pattern, and durability. In relation to both construction and life of the development, the amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy must not be unduly harmed by or as a result of development.

The site is located within the Central Mixed Use Area and a Secondary Shopping Frontage. Central Lincolnshire Local Plan (CLLP) Policy LP33 advises that the principle of both commercial and residential uses will be supported here subject to the development not detracting from the vitality and viability of the Primary Shopping Area. It also requires that the development should not result in the area losing its mixed use character. With specific reference to being within the Secondary Shopping Frontage, only uses within the former A Use Classes or uses which pedestrians may be expected to visit in the course of a shopping trip will be acceptable.

Policy LP25 States that developments within conservation areas shall preserve or enhance the character of the area.

Consultation Responses

A number of objections have been received from owners and occupiers of nearby premises. The reasons for objections principally relate to an over concentration of takeaway uses, anti-social behaviour, smell, and waste storage. A petition has also been received objecting to the development and can be found within the comments section of

this report.

The applicant has raised concerns regarding the legitimacy of some of the submitted comments objecting to the application, a selection of letters were investigated, and Officers are satisfied that there is sufficient evidence that the letters could be included within this report to Planning Committee Members.

Principle of Use

The site is identified within the Central Lincolnshire Local Plan (CLLP) Policies Map as being within the Central Mixed Use Area and the Primary Shopping Area. CLLP Policy LP33 advises that the principle of hot food takeaway uses will be supported in these areas. Officers have carefully considered the concentration of hot food takeaway uses in the vicinity. Consultation has been undertaken with the Council's Anti-Social behaviour team and Lincolnshire Police who have raised no concerns with the concentration of this type of use nor the mix of uses within the vicinity. The immediate High Street area adjacent has a good mix of uses, with retail along the Primary Shopping Frontage of the High Street being predominant.

Given the range of uses in the wider area officers are satisfied that the principle of the proposed use, as well as being supported in principle by Policy LP33, would be appropriate to the building and location. It is not considered that the use would detract from the vitality or viability of the primary shopping area or result in the area losing its mixed use character. In this respect the proposal would be in accordance with Policy LP33.

Visual Amenity and Character and Appearance of the Conservation Area

The application proposes an external flue, located on the rear elevation adjacent to the rear, enclosed yard. Due to the nature of the existing building, no alternative flue routes are available. The flue is of a standard functional design and is not dissimilar to other flues which can be seen to the rear of premises in the vicinity. There are no public views of the flue from the High Street the applicant has agreed to paint it matt black to reduce the visual impact and Officers consider this is an appropriate solution. It is therefore considered that the visual amenity of the wider area and the character and appearance of the conservation area would not be harmed in accordance with Central Lincolnshire Local Plan Policies LP26 and LP25 and with the duty contained within Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the guidance within the National Planning Policy Framework.

Impact on Neighbouring Uses

Lincolnshire Police, the Neighbourhood Policing, Public Protection and Anti-Social Behaviour and Licensing Teams have all been consulted on this application and raised no objections or concerns to the proposed use.

There is no objection to the proposed use in this central location in terms of the effect on the local environment or residential amenity. While takeaway uses have the potential to result in increased activity, noise, and disturbance the premises is located in an area where there are other 'night time' uses, including pubs and takeaways. It would not therefore be unexpected to see such a use here.

Significant discussions have also taken place to agree a suitable extraction system for the reduction of odours and noise from cooking. A suitable extraction system and flue have been agreed through ongoing discussions and the submission of technical details. It is recommended a condition relating to the implementation of the agreed details prior to the commencement of use is placed on an approval of planning permission.

The applicant has submitted details of an area outside to the rear for refuse storage, Officers consider this a suitable location. It is recommended a condition relating to the retention of this area is placed on an approval of planning permission.

Officers would therefore conclude that subject to the proposed conditions being placed on an approval of planning permission the proposal would not cause harm to the local environment or the amenities which neighbouring occupiers may reasonably expect to enjoy, in accordance with Policies LP26 and LP33 of the Central Lincolnshire Local Plan.

Highway Safety

There is no parking associated with the premises for customers. The site is located in a highly accessible City Centre location, also benefitting from easy access to public transport and local car parks.

Lincolnshire County Council as Highway Authority has assessed the application and has raised no objections to the proposal. Based on this advice it is considered that the proposal would not be detrimental to highway safety or traffic capacity.

Financial Implications

None.

Legal Implications

None.

Equality Implications

None.

Conclusion

The principle of the use is acceptable in this location and would not result in the area losing its mixed use character, nor would it detract from the vitality or viability of the primary shopping area. The use and the associated fume extraction would not cause harm to residential amenity or the local environment. The flue would also not have an unacceptable visual impact and the character and appearance of the conservation area would be preserved. The proposal would therefore be in accordance with the requirements of Central Lincolnshire Local Plan Policies LP25, LP26 and LP33 and guidance within the National Planning Policy Framework.

Application Determined within Target Date

Yes.

Recommendation

That the application is Granted Conditionally

- Development carried out within 3 years
- Development carried out in accordance with the submitted plans
- Extract system installed in accordance with details and not to be changed without the written consent of the LPA
- Retention of refuse storage area