

3/14/0739/FP – Change of use from Car Showroom (Sui Generis) to A5 (hot food takeaway), new shopfront and extract and ventilation system at former Hunts Motor Garage, 30 Northgate End, Bishop’s Stortford, CM23 2EU for YUM III LTD

Date of Receipt: 24.04.2014

Type: Full – Minor

Parish: BISHOP’S STORTFORD

Ward: BISHOP’S STORTFORD – MEADS

RECOMMENDATION

That planning permission be **GRANTED** subject to the following conditions:

1. Three Year Time Limit (1T12)
2. Approved plans (2E10) (Location Plan, A201013/01 Rev. A, A201013/02 Rev. C, A201013/03 Rev. A, A201013/04 Rev. B)
3. Hours of Use (5U08) (11am to 11pm)
4. Prior to the commencement of the use hereby approved, details of the raising of the kerb line fronting Bryan Road shall be submitted to and approved in writing by the Local Planning Authority. Such approved details shall thereafter be implemented, retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

5. Prior to the commencement of the use hereby approved and notwithstanding the details shown on the approved plans, details of all external extractor vents, condenser units, heater flues and meter boxes as appropriate shall be submitted to and approved in writing by the Local Planning Authority. Such approved details shall thereafter be implemented, retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the development and in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

6. All motor vehicles (including mopeds) used in association with the operation shall be stored within the “Bike Store Area” or “Yard” areas shown on drawing A201013/02 Rev. C only. No motor vehicles (including mopeds) may be stored between the front elevation and Northgate End at any time.

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Reason: In the interests of highway safety and in the interests of the appearance of the development and in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

7. No deliveries to the premises shall take place between the hours of 11pm to 8am on any day.

Reason: To safeguard the amenity of residents of nearby properties, in accordance with policies ENV1 and ENV24 of the East Herts Local Plan Second Review April 2007.

8. Notwithstanding the details shown on the approved plans, prior to the commencement of the use hereby approved, details of all boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be erected and retained in accordance with the approved details.

Reason: In the interests of the appearance of the development and in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

Directive:

1. Other Legislation (01OL)

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). The balance of the considerations having regard to those policies is that permission should be granted.

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1.0 Background

- 1.1 The application site is shown on the attached OS Map. It is located within the built up area of Bishop's Stortford and is close to the Town Centre. The site is also located within the Bishop's Stortford Conservation Area. The site comprises a former motor garage/showroom previously operated by the Hunts group.

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- 1.2 The proposed change of use includes alterations to the shopfront and a new extraction/ventilation system to facilitate the use.
- 1.3 An application for advertisement consent for the proposed signs has been submitted under LPA reference 3/14/1132/AD. This application before committee does not consider the signage as it will be considered separately through the above application.

2.0 Site History

- 2.1 Applications were submitted in 2013 for change of use of the premises to an A5 (hot food take away) and for advertisement consent for new signage, under LPA reference 3/13/1504/FP and 3/13/1505/AD respectively. Both applications were however withdrawn.

3.0 Consultation Responses

- 3.1 The Council's Environmental Health team has advised that any planning permission which the Local Planning Authority grant should include a list of conditions provided. These have been included where justified on planning grounds in accordance with guidance in the National Planning Policy Framework (NPPF).
- 3.2 The County Council's Highways Department has advised that they do not wish to restrict the grant of permission subject to a condition regarding the installation of a raised kerb along Bryan Road. This has been included in the recommended list of conditions. It was also advised that sufficient parking restrictions were already in place in the vicinity and the parking of mopeds should not be allowed on the forecourt facing Northgate End.

4.0 Town Council Representations

- 4.1 Bishop's Stortford Town Council objects to the proposal due to the lack of parking, increase in litter, increase in pollution (including light and noise pollution), effect on neighbours, increase in congestion, detrimental to street scene and proximity to pedestrian crossing/T-junction.

5.0 Other Representations

- 5.1 The application has been advertised by way of a site notice and neighbour notification.
- 5.2 86 letters of objection from local residents and people living within the

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surrounding counties have been received which can be summarised as follows:

- Lack of parking/risk of illegal parking
- Increase in Noise
- Increase in smells/odour
- The use would attract vermin
- Increase in light pollution
- Detrimental impact on character of the area/Conservation Area
- Attraction of youths and increase in crime/anti-social behaviour
- Impact of litter being dropped outside
- Impact on amenity of occupants of Bryan Road
- Impact on amenity of future occupants of potential development site to the North.
- Danger to road safety/pedestrian safety
- Unsustainable development
- Already enough similar units
- Undermine town centre
- More suited to residential development in line with recent developments in the area
- Increase in disturbance/comings and goings for local residents

5.3 No letters have been received in support of the application.

6.0 Policy

6.1 The relevant 'saved' Local Plan policies in this application include the following:

EDE2 Loss of employment sites
ENV1 Design and Environmental Quality
ENV23 Light Pollution and Floodlighting
ENV24 Noise Generating Development
ENV27 Air Quality
STC1 Development in Town Centres and Edge of Centre
STC6 Out of Centre and Out of Town Retailing

6.2 The National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) are also material considerations in the determination of the application.

7.0 Considerations

7.1 The site is located within the built up area of Bishop's Stortford and

within the town's Conservation Area. Whilst it is not within the Primary or Secondary shopping frontages, as defined in the adopted Local Plan, it is within close proximity of the Town Centre.

7.2 The principle considerations for this application are therefore in respect of whether the proposed change of use of the building would have an unacceptable impact on:

- the vitality or viability of the Town Centre,
- the amenities of neighbouring residential occupiers, and
- the character of the surrounding area and highway safety.

Town Centre

7.3 The application site does not fall within a Primary Shopping frontage (where retail development and other key town centre uses are encouraged) or within a Secondary Shopping frontage, where Policy STC3 of the Local Plan specifically allows for the provision of A5 takeaway use.

7.4 The Local Plan and the NPPF both indicate that the preferred location for new retail development and 'key town centre uses' should be town centres followed by edge of centre sites.

7.5 It is necessary to consider whether the proposed use in this case (Class A5 takeaway) is a 'key town centre use'. Whilst this is not defined in the adopted Local Plan, the NPPF does define main town centre uses as 'retail development (including warehouse clubs and factory outlet centres); leisure, entertainment facilities the more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, night-clubs, casinos, health and fitness centres, indoor bowling centres, and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities)'

7.6 The proposed A5 take away use would not be a restaurant and does not provide a drive-through service. Officers therefore consider that the A5 takeaway use does not fall within the definition of a main Town Centre use. It is also relevant to note that many such uses are found within other neighbourhood or local shopping centres to serve an immediate residential area). It is not considered therefore that the 'sequential approach' contained within policies STC1 and STC6 of the Local Plan are of relevance to this particular use.

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- 7.7 In any event, the adopted Local Plan indicates that “Beyond the defined Primary and Secondary Frontages, there are still peripheral locations that may be suitable for various town centre uses, including non-retail uses. Proposals in these transitional areas will be considered on their own merits”.
- 7.8 Officers consider that the key planning considerations in this respect are whether the location of the proposed use would have a demonstrable adverse impact on the viability and vitality of the town centre; on highway safety or on the amenities of nearby residents.
- 7.9 When considered alongside the close proximity of the site to the Town Centre and the very limited proposed floor space (approximately 25m²), Officers consider that the proposed use would have a negligible impact on the viability and vitality of the Town Centre, and would complement the role of the town centre whilst also providing a local service. There is no evidence to show that any harm would result to the economy of the town centre and therefore a refusal on the grounds of shopping policy is not considered to be justified, particularly given the support for economic development within the NPPF.
- 7.10 Whilst the issue of the number of existing A5 units and the potential impact on their on-going viability has been raised, the planning system is not designed to regulate the free-market economy, and the impact the proposed use could have on similar retailers cannot be given any weight in the determination of the application.

Residential amenity

- 7.11 The area that surrounds the application site comprises of a mix of residential and commercial units, although it is noted that there has been a general trend of increasing residential development in the area, illustrated by the demolition of the former ‘Shell’ garage nearby and the erection of approximately 11no. dwellings (3/11/1148/FP). To the immediate south is a public house, with commercial units to the east. There are a number of residential dwellings on the other side of Northgate End to the West, and properties further to the east along Bryan Road. Additionally, third party representations have been made which indicate that future development of land to the north is likely. However, at the time of this report no application has been submitted, and Officers consider that with no guarantee the development will be completed, very limited weight can be given to potential future occupants to the north.
- 7.12 Officers consider that the distances to the nearest residential properties

are sufficient to mitigate the most significant direct impacts on amenity in terms of noise and smell. The Environmental Health team have been consulted and have not objected to the application provided that sufficient details for extraction/ventilation are agreed. Powers are also available to deal with these issues under separate legislation in the event that unforeseen issues arise.

- 7.13 A number of objections have been received in relation to the noise generated from the use of mopeds. Officers accept that some noise is likely to be audible when vehicles are leaving and arriving back at the premises. However, the vehicles will be using the public highway which of course already generates some level of noise and Officers consider that the use of the proposed mopeds is unlikely to significantly worsen noise levels in the area. It is unlikely that the mopeds will remain on site with the engines running for significant periods of time, as they will be leaving to make deliveries. Again, the Environmental Health team have not objected to the application on those grounds and it is also important to consider the level of activity previously generated at the site by the previous commercial use, together with that which could be generated if the commercial use were to recommence.
- 7.14 In terms of the hours of use, Officers consider that the proposed hours of 11am to 11pm would be the maximum hours acceptable in order to limit the impact on residential amenity, and a condition restricting the use to these hours would be justified. Officers also consider that the restricted opening hours, the limited customer floorspace and the type of unit (delivery-based) are all factors which would limit the likelihood of anti-social behaviour occurring on a scale which would impact on residential amenity. Officers therefore consider that the proposal complies with the requirements of Policy ENV1 of the Local Plan.

Surrounding Area and Highway Issues

- 7.15 As noted above, the character of the area is a mix of residential and commercial units, although the recent trend has been towards a greater proportion of residential units. However, it must be acknowledged that the historic use of the application site is for commercial purposes, and Officers consider that its conversion to an A5 take away unit would not be detrimental to or out of keeping with the character of the area. Whilst third parties have stated that it would be preferable for the unit to be converted to residential conversion, the retention of the site for a use which generates employment is preferable under Policy EDE2 of the Local Plan. In addition, it is the proposal put forward within this application and which must be considered on its own merits.

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- 7.16 The Highways Authority has been consulted on the application, and as the Council's formal consultee on highway safety they have not objected to the application. Officers therefore consider that the application would not have a detrimental impact on highway safety, and the Highways Officer has noted that existing on-street parking restrictions are already in place to prevent parked vehicles from leading to congestion on the highway and causing a danger to other highway users. Any customers who park illegally or who cause a danger to other highway users could be controlled by the relevant authorities, and Officers therefore consider that there are insufficient grounds to refuse the application on highway safety, especially as the unit has been designed to limit the number of customers visiting the premises.
- 7.17 Concerns have also been expressed regarding light pollution and the impact of the signage. Whilst indicative proposed signage is included on the proposed plans, this application is not seeking advertisement consent for the signage, and the merits of the signage in terms of their impact on the street scene cannot be considered as part of this application.

Other Matters

- 7.18 The physical alterations to the shopfront are considered acceptable to facilitate the use as an A5 hot food takeaway. The changes are minimal and involve the insertion of a new door in the west elevation and the infilling of two windows in the north elevation, which is considered to have no significant detrimental impact on the character of the street scene and Conservation Area.
- 7.19 The proposed plans indicate the erection of 3m high palisade fencing and 3m high palisade gates around the moped storage area. However, no further details of these elements have been provided, and Officers raise concern that this would be out of keeping with and detrimental to the street scene and character of the Conservation Area. Accordingly, it is considered reasonable and necessary to require alternative boundary treatment and this can be secured by condition, together with further details of the extraction equipment and a requirement to carry out the raised kerb requested by the Highways Officer.

8.0 Conclusion

- 8.1 For the above reasons, the proposed change of use of the land and the associated shopfront alterations and extract and ventilation system are considered to be acceptable in terms of Local Plan policy and their impact on the Town Centre, amenity, the surrounding area and highway

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safety.

- 8.2 It is therefore recommended that planning permission be granted for the development subject to the conditions set out at the head of this report.