

Report of the Chief Executive

**18/00873/FUL
 CHANGE OF USE FROM RETAIL (CLASS A1) TO HOT FOOD
 TAKEAWAY (CLASS A5)
 42 DERBY ROAD, STAPLEFORD, NOTTINGHAMSHIRE, NG9 7AA**

Councillor J W McGrath requested this application be determined by the Committee.

1 Details of the Application

- 1.1 The application seeks permission to change the use of the ground floor from retail to hot food takeaway with a staff area at first floor.
- 1.2 No external or internal changes are proposed to the application site.

2 Site and Surroundings



Front elevation.



Looking west towards no. 46 (Bargain Buys), no. 44 (Greggs) and application site.



Looking north west towards application site and no. 40 (pharmacy).



Rear elevation.

2.1 The application site is a two storey terraced flat-roofed building with a single storey element to the rear and is located within Stapleford Town Centre and a prime shopping frontage. It was last used as a butchers but is currently vacant. The building is brown brick and concrete, with an aluminium shop front. The rear is open to a courtyard, with the rear garden of no. 1 Warren Avenue 10m from the rear elevation of the unit.

2.2 The adjoining units are both A1 retail use (no. 44 is a Greggs and no. 40 is a pharmacy). To the south of the application site is a large A1 retail unit (no. 41-57, a Pound Stretcher). Beyond this unit is Victoria Street Car Park (50m from the application site), which has 51 spaces and free parking for one hour.

3 Relevant Planning History

3.1 Unconditional planning permission was granted in 1978 to construct an extension to form a store (78/00989/FUL) and unconditional permission was granted in 1990 to construct a new shop front (90/00732/FUL).

4 Policy Context

4.1 **National policy**

4.1.1 The National Planning Policy Framework (NPPF) July 2018, outlines a presumption in favour of sustainable development, that planning should be planned, decisions should be approached in a positive and creative way and high quality design should be sought.

4.1.2 Paragraph 85 states planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

4.2 **Broxtowe Aligned Core Strategy**

4.2.1 The Council adopted the Core Strategy (CS) on 17 September 2014.

4.2.2 'Policy A: Presumption in Favour of Sustainable Development' reflects the presumption in favour of sustainable development contained in the NPPF.

Applications which accord with the Local Plan will be approved without delay unless material considerations indicate otherwise.

- 4.2.3 'Policy 6: Role of Town and Local Centres' states that Stapleford is a 'District Centre' in need of enhancement and that the vitality and viability of all centres will be maintained and enhanced, including widening the range of uses.

4.3 Saved Policies of the Broxtowe Local Plan

- 4.3.1 The Part 2 Local Plan has recently been examined. Until adoption, Appendix E of the Core Strategy confirms which Local Plan policies are saved. Relevant saved policies are as follows:

- 4.3.2 'Policy K4: Town Centres' states that Stapleford, as a town centre, should continue to provide appropriate shopping, employment, social, community and leisure uses.

- 4.3.3 'Policy S1: Shopping and Associated Uses within Town Centres' states that within town centres, planning permission will be granted for the creation, redevelopment or expansion of shops, financial and professional services and food and drink uses, providing proposals do not have an unacceptable impact on neighbouring uses, or the vitality and viability of the town centre.

- 4.3.4 'Policy S4: Prime Shopping Frontages' states permission will not be granted for a change of use from Class A1 (Shops) use at ground floor level if it would result in the proportion of Class A1 use falling below two thirds within the primary shopping frontages. Permission will also not be granted if a resulting break in Class A1 use within the prime shopping frontage would be created of more than 2 units.

- 4.3.5 'Policy E26: Pollution' states planning permission will not be granted for development which would result in a significant deterioration in air quality or significant loss of health or amenity to the occupants of nearby premises due to pollution.

- 4.3.6 'Policy E34: Control of Noise Nuisance' states that planning permission will not be granted for other noise-sensitive development if the occupants, even with appropriate mitigation measures, would experience significant noise disturbance.

4.4 Part 2 Local Plan (Draft)

- 4.4.1 The Part 2 Local Plan includes site allocations and specific development management policies. The draft plan has recently been examined, with the Inspector's report awaited. The representations on the plan included 7 no. representations in relation to Policy 10 and 4 in regards to Policy 19. Given that there remain outstanding objections to Policies 10 and 19, with the Inspector's view on these not yet known pending her report, these policies can be afforded only limited weight.

- 4.4.2 'Policy 10: Town Centre and District Centre Uses' states that within Town Centres, planning permission will only be granted for development which comprises Use Class A1 or another 'main town centre use' as defined by the

NPPF (subject to no more than 10% of the ground floor frontage of the centre falling within this use class or result in over 60% of the primary frontage of the centre falling within a Use Class other than A1).

- 4.4.3 'Policy 19: Pollution, Hazardous Substances and Ground Conditions' states that conditions will be applied relating to the restriction or mitigation of pollution effects where appropriate.

5 Consultations

- 5.1 Four neighbours have been consulted, and a site notice has been posted at the site.
- 5.2 Two objections have been received which raise the following concerns:
- No information has been provided on the style and type of takeaway, opening hours or number of staff to be employed,
 - Noise to residential dwellings near site,
 - Litter,
 - Customers parking on the pavement to the front of the site,
 - Possible damage to nearby properties associated with the late night use,
 - Area is already well-served by takeaways.

6 Appraisal

- 6.1 The main issues to consider with this application are the impact on the vitality and viability of the town centre and the impact on neighbour amenity.
- 6.2 The application site is within Stapleford Town Centre and forms part of the primary shopping frontage. The adjoining units are Greggs (Class A1) at no. 44 Derby Road and a pharmacy (Class A1) at no. 40 Derby Road. No. 39 Derby Road, to the south west of the site beyond the intervening road, is an office (Class A2). The nearest takeaway (Class A5) is located at no. 84 Derby Road (approximately 170m south west of the application site), and there is also a takeaway at no. 19 Nottingham Road (approximately 200m north east of the application site). There are 10 takeaway (Class A5) units within Stapleford Town Centre, which make up 9% of the overall units. 49% of the units in the town centre are in A1 retail use.
- 6.3 The proposed change of use would result in 10% of the units within Stapleford Town Centre falling under A5 takeaway use. The supporting text to Policy 6 of the Aligned Core Strategy states a District Centre (which Stapleford is) should be the focus for employment and social uses, and retail (Class A1) should make up the highest concentration of uses, encouraging increased footfall to improve the vitality and viability of the District Centre. Although A5 use differs from this, a takeaway is considered to be an acceptable town centre use because it would attract visiting members of the public and the building has a shop window. The proposed use is defined as an appropriate town centre use in Policy S1 of the Broxtowe Local Plan. The application form does not specify the type of takeaway which would operate from the site. This information is not required because the application is to establish whether a takeaway in this unit is acceptable, and the 'type' of takeaway could change without requiring planning permission.

- 6.4 Seven of the 12 units which are currently vacant (excluding the application site) within the Town Centre are currently A1 use and as such it is considered there is ample capacity for new A1 uses within the centre. The proposed change of use to A5 would, therefore, not be detrimental to the vitality of the town centre by way of limiting the variation of businesses, as a result of a reduced proportion of A1 units.
- 6.5 The nearest residential properties are no. 1 Warren Avenue, located 10m to the north west of the site beyond the rear boundary, and two residential flats located at no. 37 Derby Road, 15m to the south east of the application site. No information has been provided regarding the opening times of the proposed takeaway. A condition will be included which restricts opening times to between 10.00 and 00.30. Given the town centre location, it is considered unnecessary to restrict commercial delivery times. Whilst there might be increased noise from customers using the takeaway, it is considered that this noise is acceptable and expected, given the town centre location. It is considered that because the application site is within the town centre, and there is no residential accommodation directly above the unit, the proposed opening hours are appropriate and the proposed use would have no significant negative impact on neighbour amenity.
- 6.6 No information has been provided detailing the location for storing waste and the provision of ventilation and filtration equipment. Two pre-commencement conditions will be included to require this information to be submitted and approved before development can commence.
- 6.7 The proposed takeaway is 50m from the Victoria Street Car Park, which provides 51 spaces and free parking for one hour. Due to this, and the Town Centre location, it is considered there is sufficient parking provision for the proposed use. The pavement outside of the application site is adopted highway. Customers parking on the pavement would be dealt with by Nottinghamshire County Council as Highways Authority, and is not a material planning consideration. Although there may be an increase in litter from the proposed use, it is considered the potential for increased litter is not significant enough to warrant a refusal for an appropriate town centre use. Any damage to properties associated with the late night use would be a legal matter and is not a material planning consideration.

7. Conclusion

- 7.1 In conclusion, it is considered that the development is not harmful to the vitality and viability of the town centre and neighbour amenity. The proposal therefore accords with Broxtowe Local Plan Policies K4, S1 and S4, with Policy 6 of the Broxtowe Aligned Core Strategy, Policy 10 of the Draft Part 2 Local Plan and with the National Planning Policy Framework.

Recommendation

The Committee is asked to RESOLVE that planning permission be granted subject to the following conditions:

1. The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the 'Site Location Plan' (18902 01), the 'Site Plan' (18902 02) and the 'Existing and Proposed Plans and Elevations' (18902 101) received by the Local Planning Authority on 27 December 2018.
3. No development shall commence until details of the storage of waste on the site have been submitted to and approved in writing by the Local Planning Authority. The storage of waste shall take place in accordance with the agreed details.
4. No development shall commence until details of suitable ventilation and filtration equipment have been submitted to and approved in writing by the Local Planning Authority. The ventilation and filtration equipment shall be installed in accordance with the agreed details.
5. The use hereby permitted shall not be open to customers, nor be open for takeaway deliveries, except between 10.00 – 00.30 hours.

Reasons

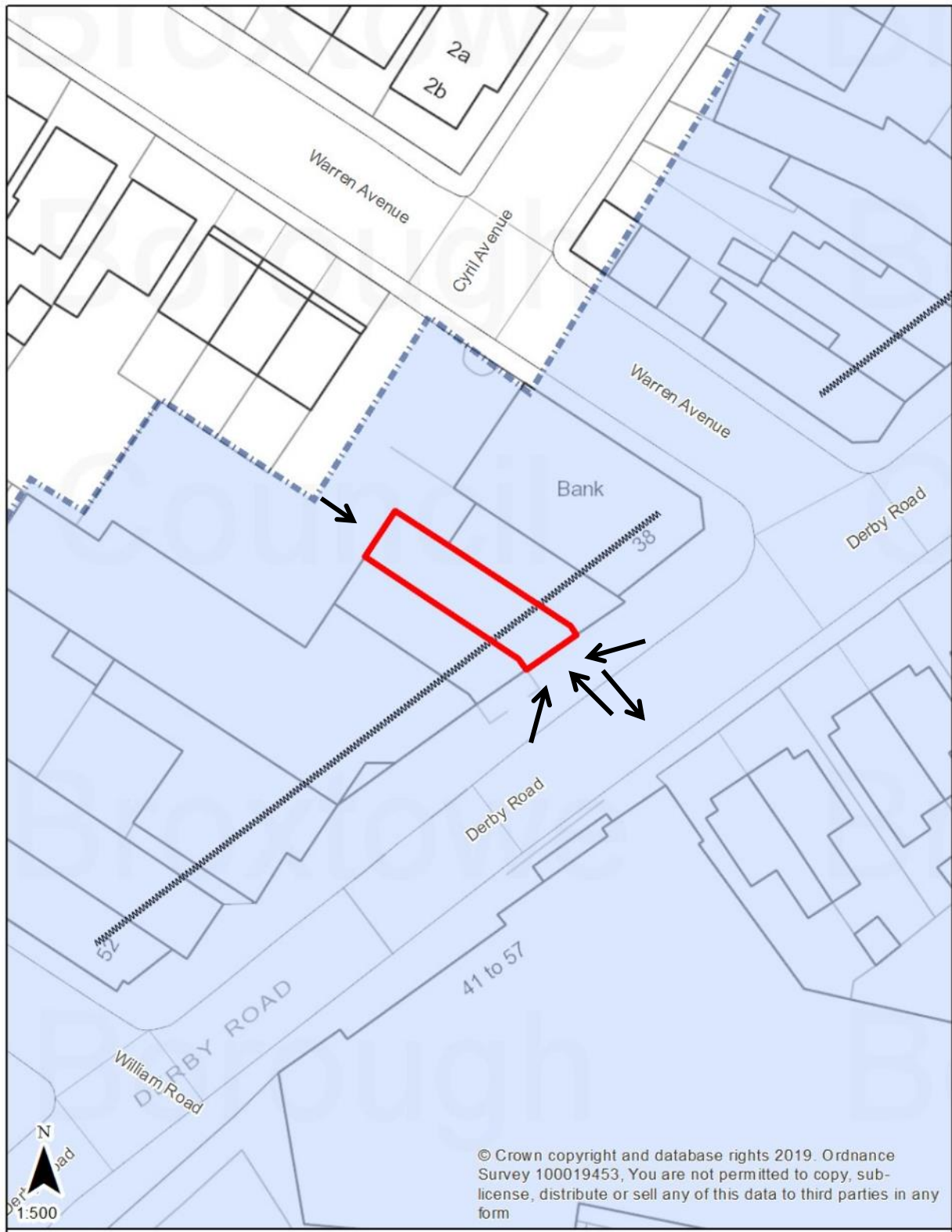
1. To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. No such details were submitted with the application and the development cannot proceed satisfactorily without the outstanding matters being agreed in advance of development commencing to ensure the details are satisfactory in the interests of the amenities of nearby residents and in accordance with Policy E34 of the Broxtowe Local Plan (2004).
4. No such details were submitted with the application and the development cannot proceed satisfactorily without the outstanding matters being agreed in advance of development commencing to ensure the details are satisfactory in the interests of the amenities of nearby residents and in accordance with Policy E26 of the Broxtowe Local Plan (2004).
5. In the interests of the amenities of nearby residents and in accordance with the aims of Policy E34 of the Broxtowe Local Plan (2004).

Note to applicant


1. The Council has acted positively and proactively in the determination of this application by working to determine it within the eight week determination timescale.
2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority
3. Any external ventilation/filtration equipment may require planning permission. All plant, machinery and equipment installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that noise there from does not, at any time, increase the ambient equivalent continuous noise level as measured according to the current British Standard BS4142 at any adjoining or nearby residential property.
4. The internal layout, design and construction of the premises must meet with the current Food safety and Health & Safety requirements and the food activity will need to be registered with the council. The applicant must contact the Council's Food and Occupational Safety Section on 0115 917 3485.

Background papers

Application case file



Legend

-  Site
-  Prime shopping frontages
-  Town centre
-  Photos