

**AGENDA ITEM NO. 9/3 (c)**

<b>Parish:</b>	<b>Feltwell</b>	
<b>Proposal:</b>	<b>Change of use from Retail E(a) to Hot Food Takeaway (Sui Generis) with associated extraction at rear</b>	
<b>Location:</b>	<b>1 St Marys Street Feltwell Thetford Norfolk IP26 4AQ</b>	
<b>Applicant:</b>	<b>Mr I Yasan</b>	
<b>Case No:</b>	<b>22/01456/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Mrs C Dorgan</b>	<b>Date for Determination: 10 October 2022 Extension of Time Expiry Date: 9 March 2023</b>

**Reason for Referral to Planning Committee** – Parish Council objection contrary to officer recommendation and referred by Sifting Panel.

**Neighbourhood Plan:** No

**Case Summary**

The proposal is for a change of use of building, from retail (Use Class E(a)) to a takeaway along St Mary's Street in Feltwell. The proposal includes the installation of an extraction fan on the rear elevation. No material changes will be made to the external appearance of the building.

The application site is located on the west side of St Mary's Street, in-between No 2 High Street to the south and No 3 St Marys Street to the north. In the wider setting, is St Mary's Church, a Grade I Listed Building opposite.

**Key Issues**

Principle of Development  
Form and Character  
Impact on Neighbours from the use  
Highway Safety  
Other Material Considerations

**Recommendation****APPROVAL**

## THE APPLICATION

The application site lies centrally within Feltwell village. It is located on the west side of St Mary's Street, in-between No 2 High Street to the south and No 3 St Marys Street to the north. In the wider setting, is St Mary's Church, a Grade I Listed Building opposite.

The proposal is for a change of use of building, from a retail (Use Class E(a)) to a takeaway use (which means a use class on its own) along St Mary's Street in Feltwell. The site is a former shop and as such the traditional shopfront already exists. The proposal includes the installation of an extraction fan on the side elevation, however no other material changes will be made to the external appearance of the building.

The application was originally submitted early in 2022 but was withdrawn following Community Safety and Neighbour Nuisance (CSNN) comments requesting further information regarding potential impacts on noise, odour, and public amenity from the proposed change of use. This information has now been submitted, discussed and revised as part of the current application.

## SUPPORTING CASE

- We are looking to establish a family run business in Feltwell. Our family has been in hot food takeaway business for over 25 years and we pride ourselves on maintaining high standards to our work and over the years we have always achieved 5 star hygiene rating and excellent customer service. Want to become part of the local community.
- We are not people who will "not care about littering the place and bringing antisocial behaviour to the street". Instead we promise to deliver good customer service and tailoring our business to the preferences of the community.
- All the technical reports and management plans submitted to you show our detailed and considerate approach to this application. Happy to work on the appearance of the shop to address objections.
- One of the main concerns raised by all of the objections is "the antisocial behaviour in the area will aggregate and move to this area" due to the new business in place. We have the experience to deal with such challenging incidents. From our experience over the years and most recently managing our restaurant of 200 seating for the last three years (Pera Palace Chatteris) we have learnt that antisocial behaviour exists BUT can be controlled and dealt with appropriately.
- The Highways Development Management does not see any objection on highway safety grounds. In addition to this I would like to say that this will be a fast-food shop and as such we are obliged to serve our customers fast and swiftly send them away.
- All of the objections mentioned litter/ vermin concerns. We guarantee 5\* star hygiene rating standards and litter/pest control management plans will be in place. Over the years we have worked out a good practice of regular pest controls and an effective pest management programme in place that prevents the introduction of pests and also makes sure to reduce the conditions that would encourage presence. Our appropriate practice is always supported by an appointed pest control contractor. We adhere to Safer Food Better Business rules of the Food Standards Agency and keep a daily written file of our practice, which is regularly controlled by the Government Body. Details of refuse storage and grease traps and grease collection are included in the application. Briefly - bin collection arranged weekly and big litter bins are tucked in the garage of the

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property. The bins are then washed regularly. We would not litter Feltwell, we have the responsibility of installing bins accordingly in ( and if needed around) the shop and keep them emptied and cleaned daily, add anti-litter signs around shop, and also staff members are committed to regular picking up rubbish outside our business. Litter picking is a practice that we have perfected over the 25 years.

- CSSN and the local community raised concerns about cooking smell and noise. Detailed plans/ reports have been submitted to CSSN. They do not object to the development. Over the years of experience in my opinion residents and passers-by do not like standing around at a takeaway shop for longer than needed to wrap up the food to be taken away and we certainly work swiftly to achieve that. Saying that we have adjusted/reduced the working hours/days as requested.
- We hope that the above information supported with the technical reports might also be an answer to Parish Council's concerns. We strongly hope that working towards achieving the suggested conditions by CSSN would make this project more acceptable to the community. Keeping in mind that the objections are only a minor number of the village population, we keep our hopes high and look forward to finding an opportunity to become a part of the community.

## **PLANNING HISTORY**

22/00609/F: Application Withdrawn: 31/05/22 - Change of use from Retail E(a) to Hot Food Takeaway (Sui Generis) with associated extraction at rear. - 1 St Marys Street

## **RESPONSE TO CONSULTATION**

### **Parish Council: OBJECTION**

Feltwell Parish Council strongly objects. St Mary's Street is not the right location for this type of business which will produce excess rubbish, noise, smell, parking issues and disruptions to the neighbouring properties. It will encourage youths to congregate late at night and being opposite St Mary's Church, the churchyard may become a gathering place.

### **Local Highway Authority: NO OBJECTION**

Ultimately the proposed class use would attract on-street parking similar to that of the existing permitted class uses the site presently holds. I observe that there have been no recorded accidents at the site within the past 5 years and as a result, on balance, I believe that it would be difficult to substantiate an objection on highway safety grounds.

### **CSNN: NO OBJECTION subject to conditions**

Having reviewed the recent Neighbourhood Management Plan (NMP) (V3) dated 13th February 23, and previous comments regarding the two main concerns of noise and odour, we would point out that the primary concerns of noise and odour are valid, and have set out a number of conditions that should seek to control those aspects whilst taking into consideration the requirement for all conditions to be necessary, relevant, enforceable, precise and reasonable.

We recognise and appreciate the fact that the applicant has submitted extensive information regarding noise and odour mitigation but in order to entirely satisfy requirements we have requested a condition requesting details of the specific equipment to be used for ventilation

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as this has not been detailed on the plans and this is needed in order to form part of the planning consent, if granted. This condition may be reconsidered should the relevant information be submitted as late correspondence and be deemed acceptable prior to consent being granted.

Further conditions are recommended:

- Self-closing external doors
- Hours of operation of plant/ machinery
- Opening hours
- Hours of delivery
- Refuse collection
- Noise protection

An information should be attached re the Environmental Protection Act 1990.

### **Conservation Officer (verbal response): NO OBJECTION**

Pleased the flue/ extraction equipment is to be painted black and the fact it is tucked into the rear. Signage should stay within the existing fascia and have regard to the historic church opposite. Would welcome the building being 'tidied up'.

## **REPRESENTATIONS**

**THIRTY-SIX** representations of **OBJECTION**. The issues are summarised as:

- Already have food takeaways, not needed.
- Proximity to residential properties will mean impossible to prevent noise and air pollution.
- Feltwell quiet rural location - any extraction equipment would generate noise/ disturbance.
- This would bring litter, noise and smell to neighbouring residents.
- Vermin problems would be created.
- Insufficient parking on the street.
- Increased traffic levels - highway safety.
- Location not suitable at road junction.
- Location opposite church is inappropriate/ damaging to visual amenity.
- Increase in anti-social behaviour.
- Impact on value of neighbouring properties.
- Impact on drainage as a result of grease into sewers.

## **LDF CORE STRATEGY POLICIES**

**CS08** - Sustainable Development

**CS06** - Development in Rural Areas

**CS10** - The Economy

**CS11** – Transport

**CS12** - Environmental Assets

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

**DM17** - Parking Provision in New Development

### **NATIONAL GUIDANCE**

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)  
National Design Guide 2021

### **PLANNING CONSIDERATIONS**

The key issues are:

Principle of Development  
Form and Character  
Impact on Neighbours from the use  
Highway Safety  
Other Material Considerations

#### **Principle of Development**

The application site lies centrally within the village of Feltwell and within the development boundary. Feltwell is categorised as a joint Key Rural Service Centre in the adopted Local Plan. As such development is permitted under DM2 of the Site Allocations and Development Management Policies Plan (SADMPP) (2016) subject to this being in accordance with the other policies in the adopted Local Plan.

Policy CS10 of the Core Strategy seeks to retain premises currently or last used for employment purposes. This is reiterated in Paragraph 84 of the NPPF which states planning decisions should enable the sustainable growth and expansions of all types of businesses in rural area, both through the conversion of existing buildings and well-designed buildings. The application site is currently a vacant building, last used for retail (Use Class E(a)). The change of use would retain the premises for employment use by converting an existing building and therefore meet local and national planning policies. It would also provide an additional facility for the village.

The principle of development, to change the premises to a takeaway from a retail, is supported by Policy DM2 of the Site Allocations and Development Management Policies Plan (SADMPP) (2016), Policy CS10 of the Core Strategy (2011), and provisions with the NPPF, namely paragraph 84.

#### **Form and Character**

The existing building was previously used as a shop and has an existing traditional shopfront, therefore the proposed structure and appearance of the unit will not be dissimilar to the existing.

The submitted plans show extraction equipment is to be installed on the west elevation of the main building. This will be behind the front elevation of the building and not is considered to cause material harm to St Mary's Church, a Grade I Listed Building opposite the site. Notwithstanding this, it is proposed to be painted black, to reduce its impact even further and is conditioned accordingly.

Signage is shown on the front elevation of the building. This would require Advert consent separately and is therefore not considered as part of this planning application.

In terms of form and character, the proposed development would meet the NPPF, Policy CS08 of the Core Strategy (2011), and Policy DM15 of the SADMPP (2016).

### **Impact on Neighbours from the Use**

A number of objections received to the scheme include concerns raised about the impact of the use on the residential amenity of neighbouring residents. Specifically, that the business would result in noise and disturbance, generate odour issues within the locality and create litter. Furthermore, that it may create drainage issues for residents. It would also increase anti-social behaviour within the locality.

The applicant has worked with CSNN throughout the application process to respond to and address the concerns raised. A noise management plan has been submitted (and subsequently revised), alongside an odour assessment, details of the proposed extraction system, details on the grease traps and waste management information. While there is still some outstanding information required, based on the latest information submitted CSNN do not object to the proposal subject to the inclusion of planning conditions. Recommended planning conditions are detailed below:

- Ventilation and extraction system - requesting details of the specific equipment to be used for ventilation as this has not been detailed on the plans to date and this is needed in order to form part of the planning consent.
- Requirement for self-closing external doors
- Restricted hours of operation for plant/machinery (including ventilation and extraction systems) shall be operated at the premises outside of the hours of 12pm to 9pm Monday to Thursday, 12pm to 9.30pm on Fridays and Saturdays and at no time on Sundays Bank or Public Holidays.
- Opening hours – The premises shall only be open to public between the hours of 12pm to 9pm Monday to Thursday, 12pm to 9.30pm on Fridays and Saturdays and at no time on Sundays, Bank or Public Holidays unless otherwise approved in writing by the Local Planning Authority.
- Hours of delivery - No deliveries shall be taken outside the hours of 11.00am to 2pm Monday to Friday.
- Refuse collection - No refuse collections shall take place outside the hours of 8.00am to 1pm Monday to Friday.
- Noise protection - A detailed noise management plan shall be produced and implemented prior to commencement of the use hereby permitted and shall become operational thereafter.
- Noise Protection Plan – requesting additional information to that supplied to date.

On receipt of this information, CSNN consider the concerns raised can be suitably addressed and managed and would not warrant the refusal of this application.

Consideration has to be given however to whether the conditions detailed above meet the tests set out in the NPPF paragraph 56. Namely that they are necessary, relevant, enforceable, precise and reasonable. In terms of the conditions regarding the delivery hours

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and the refuse collection; the hours do not need to be restricted to such an extent and therefore have been amended accordingly. It is also suggested that a condition is attached to secure the provision of a litter reduction scheme including a litter bin for public use.

On this basis it is considered that subject to the conditions/ additional information the proposal is in accordance with the NPPF, Policy CS08 and Policy DM15.

### **Highway Safety**

Objections to the development raise concerns about insufficient parking, and highway safety implications of the increased traffic levels at the road junction. The Local Highway Authority acknowledges the change of use of the premises would attract on-street parking that is similar to that of the existing permitted class use. There have been no incidents of traffic related accidents recorded on St Mary's Street, Feltwell, in the past 5 years. Therefore, on balance, the Local Highway Authority have no objection on highway safety grounds.

### **Other Material Considerations**

Objections to the proposal include concerns that the use would increase anti-social behaviour. However, the opening hours are restricted, and this would be down to the management of the takeaway. This issue is included within the noise management plan which the applicant will be required to monitor and is secured via condition.

Neighbours raise concerns that the use would devalue the neighbouring dwellings, however, this is not a planning reason to warrant refusal of the application.

A query has been raised regarding the ownership of the premises and whether the application form has been completed correctly. The applicant has the leasehold on the property with the freehold owned by the owner of Londis next door. The applicant has confirmed that the freeholder is aware of, and has given consent for, the application.

### **CONCLUSION**

The application seeks planning consent for the change of use of a former retail use to a hot food takeaway, in the centre of the village of Feltwell. Objections to the application raise concerns regarding the generation of noise and disturbance, odour, litter and vermin, anti-social behaviour. The applicant has worked with CSNN to address these concerns and CSNN are satisfied with the scheme proposed, subject to the necessary conditions. The development is considered to be in accordance with the NPPF, Core Strategy Policies CS06, CS08, CS10, and CS11, and SADMPP Policies DM2, DM15 and DM17.

### **RECOMMENDATION**

**APPROVE** subject to the imposition of the following condition(s):

- 1 Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: The development hereby permitted shall be carried out in accordance with the following approved plans Drawing Nos P-104B and P102B.

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- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: Notwithstanding the submitted details the use hereby permitted shall not commence until a detailed scheme for the ventilation and extraction of fumes/cooking odours has been submitted to and approved in writing by the Local Planning Authority. The scheme shall specify the precise details of the flue extraction equipment to be used, including: the stack height; the design and position of all ductwork; the noise/power levels of the fan(s); the number, type and attenuation characteristics of any silencers; details of anti-vibration mounts and jointing arrangements in the ductwork; the number of air changes per hour, and the efflux velocity, any odour attenuation, such as grease filters, electrostatic precipitators and carbon filters as recommended in the noise and odour surveys. The scheme shall be implemented as approved prior to the commencement of the use and thereafter maintained as such, including regular servicing as per the manufacturer's specification.
- 3 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 4 Condition: All doors with openings to external areas of the premises shall be self-closing to minimise the emission of odours and/or noise from the premises, and should not be kept open for any period of time except for normal access and egress and for purge ventilation.
- 4 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 5 Condition: No plant/machinery (including ventilation and extraction systems) shall be operated at the premises outside of the hours of 12pm to 9pm Monday to Thursday, 12pm to 9.30pm on Fridays and Saturdays and at no time on Sundays Bank or Public Holidays.
- 5 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 6 Condition: The premises shall only be open to public between the hours of 12pm to 9pm Monday to Thursday, 12pm to 9.30pm on Fridays and Saturdays and at no time on Sundays, Bank or Public Holidays unless otherwise approved in writing by the Local Planning Authority.
- 6 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 7 Condition: No deliveries shall be taken outside the hours of 0800 to 1700 Monday to Friday.
- 7 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 8 Condition: No refuse collections shall take place outside the hours of 0800 and 1700 Monday to Friday.
- 8 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.



- 9 Condition: Notwithstanding the submitted details, a detailed noise management plan shall be produced and implemented prior to commencement of the use hereby permitted and shall become operational thereafter. The noise management plan shall be provided at any time on request within 28 days to the Local Planning Authority and shall be reviewed at least annually and at any point that there is an operational change that would impact measures in the plan. The plan should include measures to mitigate, control and prevent noise and a complaint handling procedure. All staff on the premises shall be made aware of the plan and trained accordingly.

The noise plan shall encompass the Noise Management Plan V3 as supplied as part of this application and should also include all potential noise sources including those specified below:

- Measures to reduce vehicle noise from delivery drivers (grouping orders, prohibit engine idling and vehicle music, limit first and last orders)
- Measures to reduce noise from customers including vehicular noise (signage, regular outdoor checks, basic customer management, last entry and last orders and system to record, address and where necessary, report any instances of Antisocial Behaviour in a timely manner)
- Reference to the regular servicing and maintenance of all mechanical noise making equipment such as the extraction and ventilation system.
- Contact details of those responsible for handling complaints of noise and antisocial behaviour alongside the overall complaints handling procedure.

- 9 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.

- 10 Condition: Notwithstanding the details shown on the approved plan, prior to the commencement of use the flue and duct work identified on Drawing No P104 B shall be painted matt black and retained as such thereafter.

- 10 Reason: To ensure a satisfactory external appearance and grouping of materials in accordance with the principles of the NPPF.

- 11 Condition: Notwithstanding the submitted details, prior to the commencement of the use hereby permitted a litter reduction scheme shall be submitted and approved in writing by the Local Planning Authority. This scheme shall include the provision of litter bins. The scheme shall be implemented as approved and retained as such in perpetuity.

- 11 Reason: For the avoidance of doubt and to safeguard the amenities of the locality in accordance with the NPPF.