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## Appeal Decision

Site visit made on 2 June 2025

**by J Pearce MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 June 2025

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**Appeal Ref: APP/P0240/W/25/3358551**

**119A Station Road, Flitwick, Bedfordshire MK45 1LA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Mehmet Kavak against the decision of Central Bedfordshire Council.
  - The application Ref is CB/24/02083/FULL.
  - The development proposed is the change of use of a retail store (Class E) to a hot food takeaway (Sui Generis) on the ground floor and associated installation of ventilation equipment.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed development on:
  - the living conditions of occupants of neighbouring dwellings, with regard to noise and disturbance and outlook;
  - the effect on highway safety, with regard to the provision of parking; and
  - the character and appearance of the area.

### Reasons

#### *Living conditions*

3. The appeal site comprises a ground floor commercial premises with a first floor residential property. The site is part of a building which includes a neighbouring retail premises. The site is within a primarily residential area, including dwellings to the front and side of the site. The entrance to first floor dwelling is immediately adjacent to the door to the ground floor premises.
4. The proposal is for the change of use of the ground floor premises at the site to a hot food takeaway. The takeaway would lead to considerable activity, including comings and goings, to the front of the site and close to neighbouring residential properties. The proposed operating hours would extend into evening and nighttime and the likely increase in activity during these hours could lead to substantial noise and disturbance being generated by activity by the operation of the use and customers to the front of the site. This would be likely to result in considerable harm to the living conditions of the occupants of neighbouring properties.
5. The development includes the installation of a flue associated with ventilation equipment relating to the kitchen at ground floor level. The flue would be to the

rear of the building and would be immediately to the rear of a first floor window serving a residential property. The plans indicate that the window serves a bathroom and is fitted with obscure glazing. Although the flue would be narrow and the window is fitted with obscure glazing, it would nonetheless appear as an unneighbourly feature that would harm to the outlook of the occupants of the first floor property. The first floor property is within the ownership of the appellant. Nevertheless, this may not always be the case and there is no mechanism before me that would ensure that they properties remain within the same ownership.

6. The submitted Noise Impact Assessment Report<sup>1</sup> (NIAR) indicates that the extraction equipment and flue would be fitted with a silencer and extraction fan jacket. These would attenuate the noise generated by the ventilation equipment, and subject to the equipment being installed in accordance with the details within the NIAR, would safeguard the living conditions of occupants of neighbouring properties with regard to the installation of the flue.
7. I conclude that the proposal would harm the living conditions of the occupants of neighbouring properties, with regard to noise and disturbance and outlook. The development therefore conflicts with Policies HQ1 and CC8 of the Central Bedfordshire Local Plan 2021 (LP), which collectively require that there is not an unacceptable adverse impact upon nearby existing or permitted uses, including impacts on amenity or noise and that the conditions of the site can be suitably mitigated for the proposed end use and cause no adverse effects.

#### *Highway safety and parking*

8. The appeal site includes part of a building positioned to the back edge of a footway to the side of a small cul-de-sac. The cul-de-sac is approached from Station Road, close to the junction with Kings Road, Greenfield Road and Maulden Road. The end of the cul-de-sac is wide and informal parking takes place in unmarked bays. The cul-de-sac is outside of the appeal site and the evidence before indicates that it is not within the ownership of the appellant.
9. Policy T3 of the LP states that developers must have regard to the car parking standards set out in the Central Bedfordshire Council's Design Guide and Parking Strategy. The Parking Standards for New Developments Supplementary Planning Document 2023 (SPD) states that the SPD replaces the standards in the DG and the PS and requires one space per 25 square metres plus 50 square metres loading and unloading area. In addition, the SPD requires four short stay cycle parking spaces and a minimum of two long stay cycle parking spaces.
10. The proposal includes two parking spaces to the front of the site and that cycle storage could be provided to the rear of the building. While the level of vehicle and cycle parking provision would meet the required standards, the parking spaces and loading and unloading area would be outside of the appeal site. In addition, there is no substantive evidence before me to demonstrate that the parking spaces and the access to the cycle and waste storage area to the rear is within the ownership of the appellant. Moreover, the proposed parking spaces would be positioned across the vehicular accesses serving neighbouring properties, potentially preventing entry and exit to the dwellings, as well as limiting the area for the manoeuvring of vehicles within the highway.

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<sup>1</sup> Dated 08/07/2024, prepared by Sound Licensing Limited

11. The cul-de-sac and Station Road are not subject to parking restrictions and the appellant has submitted images of areas of Station Road that could provide on-street parking. However, the evidence before me in respect of the capacity of on-street parking near the site is limited. Accordingly, I cannot be certain, given the potential for considerable vehicle movements to be generated, particularly during certain periods, that on-street parking space would be available for customers. Consequently, the proposal could lead to conflict between users of the highway and the obstruction to the free flow of traffic.
12. The appellant states that members of staff would be required to access the site by walking or cycling. Nevertheless, there is no mechanism before me that would obligate them to do so. In any event, this would not significantly reduce the harm that I have identified.
13. I cannot be certain that the proposal would not have an unacceptable effect on highway safety as a result of the inadequate parking and servicing arrangements. The development therefore conflicts with Policy T3 of the LP, as set out above and Policy T2 of the LP, which requires that proposals for new development must not have a detrimental effect on highway safety and patterns of movement.

#### *Character and appearance*

14. The appeal site is within a primarily residential area but comprises a ground floor commercial premises adjacent to an existing retail unit. The development includes a flue in a discreet position to the rear of the building, which would not alter the appearance of the building or the area.
15. The proposal would result in an increase in activity to the front of the site. Whilst the comings and goings would be greater than that of a residential property, there would not be a significant or harmful change to the character of the area given its former commercial use and its position adjacent to an existing retail premises.
16. I conclude that the proposal would not harm the character and appearance of the area. The development therefore accords with Policy HQ1, which requires all developments to respond positively to their context.

#### **Other Matters**

17. To the rear of the appeal site is No 117, a Grade II listed building, which is accessed via a drive to the side of the site. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires me to pay special regard to the desirability of preserving listed buildings and their setting.
18. No 117 is a two-storey, timber-framed building with a thatched roof, set back from Station Road to the rear of the frontage properties. The proposal includes the addition of a flue to the rear of the building at the site, which is set away from the listed building. While the flue would be visible from No 117, including the garden and the driveway, the scale and position of the flue would preserve the setting of the listed building.
19. The appellant suggests that the site could be used as fish and chip restaurant without requiring the submission of a planning application. However, I have not been presented with any substantive details, including a Certificate of Lawfulness, to demonstrate that there is a realistic prospect that such a development would take place. Moreover, I cannot be certain that the activity associated with a

restaurant, including the frequency of comings and goings at the site and availability of parking in the area, would be comparable to the proposal before me.

### **Conclusion**

20. The proposal conflicts with the development plan. The material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

*J Pearce*

INSPECTOR