

**13/00344/FUL****32 HIGH STREET GREAT WAKERING****APPLICATION TO REMOVE CONDITION NO. 2 OF PLANNING PERMISSION 12/00095/COU (CHANGE OF USE FROM A1 TO A3 (RESTAURANTS AND CAFÉS)) TO ALLOW THE SELLING OF HOT FOOD TO BE CONSUMED OFF THE PREMISES.****APPLICANT: MR M ASHIK****ZONING: RESIDENTIAL, CONSERVATION AREA****PARISH: GREAT WAKERING****WARD: FOULNESS AND GREAT WAKERING**

In accordance with the agreed procedure this item is reported to this meeting for consideration.

This application was included in Weekly List no. 1195 requiring notification of referrals to the Head of Planning and Transportation by 1.00 pm on Wednesday, 31 July 2013, with any applications being referred to this meeting of the Committee. The item was referred by Cllr C G Seagers.

The item that was referred is appended as it appeared in the Weekly List, together with a plan.

**1 NOTES**

- 1.1 Planning permission is sought to remove condition no. 2 of planning permission reference: 12/00095/COU (Change of Use from A1 to A3 (Restaurants and Cafés)) to allow the selling of hot food to be consumed off the premises. The site is located within the residential and Conservation Area of Great Waking. To the north of the site are the residential properties within Whitehall Road and to the west is a residential dwelling, previously the Old Fire Station. To the south is the High Street and to the east is no. 30 High Street, a Chinese takeaway.
- 1.2 Planning permission was granted on 20 July 2012 for 'Change Of Use From A1 to A3 (Restaurants and Cafés)' (Reference: 12/00095/COU). This was subject to various conditions, one of which stated as follows:-

'The premises shall not be used for the sale of hot food for consumption off the premises.

REASON: To enable the Local Planning Authority to retain adequate control over such use, in the interests of residential amenity and preserving the character of the Conservation Area.'

- 1.3 The reasoning for imposing this condition is detailed further within the officer report for this application which stated as follows:-

- 1.4 It is considered that there are significant levels of local interest in the prevention of further hot food take away units in Great Wakering, with the associated traffic movements and disruption that takes place, and that a condition restricting the sale of take away food is imposed to prevent such disturbance to local residents.

## **2 RELEVANT PLANNING HISTORY**

- 2.1 04/01057/COU - Change of Use of Ground Floor to Take Away. New Bin Store, Car Park Area to Rear (6 spaces). REFUSED for the following reasons:-

1. The proposal would have a serious and adverse effect on the amenity enjoyed by occupants of neighbouring properties and the surrounding area, taken together with the adjacent A3 use, by reason of excessive noise disturbance, litter, smells and general pedestrian and vehicular activity, particularly late in the evenings, within the vicinity of the site.
2. The proposal involves the loss of a further retail unit within a local neighbourhood shopping parade, as outlined within the adopted Local Plan, and would contribute to a decline in the attractiveness and function of this neighbourhood shopping parade, and would be contrary to Policy SAT4 of the adopted Local Plan and Policy SAT5 of the draft Replacement Local Plan.

- 2.2 05/00745/COU - Change Of Use of Ground Floor Retail/Office Space to Estate Agents (Use Class A2). APPROVED

- 2.3 06/00157/ADV - Display 1 x Externally Illuminated Sign to Front Elevation. APPROVED

- 2.4 10/00599/FUL - Change of Use of Ground Floor From A1 ( Retail Shop) To A5 (Hot Food Takeaway), Demolish 2no. Out Buildings at Rear and Construct New Single Storey Pitched Roofed Out Building To Provide Store, Re-surface and Widen Access Drive Layout Car Parking. REFUSED for the following reasons:-

1. The proposal would have a serious and adverse effect on the amenity enjoyed by occupants of neighbouring properties and the surrounding area, taken together with the adjacent A5 use, by reason of excessive

noise, disturbance, litter, smells and general pedestrian and vehicular activity, particularly late in the evenings, within the vicinity of the site.

2. The proposal, by virtue of the conspicuous positioning, size and industrial appearance of the ventilator/extractor system, is considered to be detrimental to the character and appearance of the Great Waking Conservation Area contrary to saved Local Plan Policy BC1 and the guidance of PPS5.

2.5 12/00095/COU - Change Of Use From A1 to A3 (Restaurants and Cafes). APPROVED

2.6 13/00303/ADV - Externally Illuminated Fascia Sign (Retrospective Application). APPROVED

### **3 MATERIAL CONSIDERATIONS**

3.1 Within previous applications in 2004 (Ref: 04/01057/COU) and 2010 (Reference: 10/00599/FUL) concerns were raised with regard to the impact of takeaway facilities at this site on the amenity enjoyed by the occupants of neighbouring properties. This led to the refusal of these applications by the Council.

3.2 It should be noted that the neighbouring property (no. 30) is a Chinese takeaway and there is also a fish and chip shop further along this parade (no. 18), both of which have existed for a considerable period of time and border residential properties. The fish and chip shop was granted planning permission in 1969 (Reference: ROC/382/69) with no planning restrictions attached. The Chinese takeaway does not appear to have ever been clearly granted as a takeaway use with an application granted in 1963 for the change of use to a shop and no change of use applications having been approved for other uses since this time. However, an advertisement application was granted in 1972 (Reference: ROC/72/7/A) advertising a Chinese takeaway, therefore it has clearly been used for this purpose since the 1970s and is therefore lawful. Within the planning officer report for the 2004 application, which recommended approval of the application, it stated that 'the shopping parade is the most appropriate location for this development'. Therefore when considering impact on neighbouring properties it is important not to consider this use independently but alongside other similar existing uses within this parade with similar relationships.

3.3 The proposed ancillary takeaway use would operate in line with the opening hours restricted by planning condition 3 of the 2012 planning application Reference: 12/00095/COU, which are 1000 to 2400 hours. Any noise created by this activity is likely to occur at the front of the premises and is not considered to be significantly greater than that generated by the approved A3 use. Noise at the rear affecting residents in Whitehall Road is only likely to occur if waste is disposed of within this area, which would be an occasional rather than a continuous activity. The rear most elevation of no. 32 is located

approximately 31m, at its closest point, to the rear elevation of dwellings within Whitehall Road, which is considered to represent a reasonable separation distance for both noise and smell considerations. Only one objection has been received to this proposal from a resident residing in the High Street. Although it should be noted that the previous application in 2012 generated numerous objections and historical applications for such uses at this site have generated similar concerns. It is not considered that the proposed takeaway use would be detrimental to the occupiers of residential properties in the High Street, including the residential premises located directly above no. 32. These properties are located in a High Street location close to a shopping/commercial area and therefore such disturbance is a known effect of being sited in such a location. It is expected that a High Street location will generate higher noise levels and High Street locations are the most suitable sites for takeaway facilities, away from residential estates. No objection has been received from RDC Environmental Services with regard to noise and smell considerations.

- 3.4 It should be considered that the National Planning Policy Framework places great emphasis on a presumption in favour of sustainable development and seeks to achieve economic recovery via the planning system. This unit had previously been a vacant unit within the Conservation Area of Great Wakering and it is not considered that the growth of such a business into different areas should be limited by reasoning that is not considered to be sufficiently justified in this instance.
- 3.5 It should be noted that this application does not consider the grant of planning permission for a mixed A3/A5 use. It seeks to remove a restriction on the sale of hot food for consumption off the premises, but this would still only enable the takeaway use to be operated as an ancillary use to the restaurant, i.e., a secondary activity. Planning permission would be required for this use to become more dominant and certainly as just a take away operation and for the site to be used as a mixed A3/A5 use. An informative could be attached to an approval advising of this. Therefore, approving this application would not permit an intensive use of this site as a takeaway facility; it would just allow a takeaway element in association with the lawful A3 use. However, it is not considered that a mixed A3/A5 use here would be objectionable for the reasoning outlined above.
- 3.6 It is not considered that the operation of an ancillary takeaway use at the site would have a detrimental impact upon the character of the Conservation Area having no impact upon the external appearance of the building. The ECC Historic Buildings Advisor has not objected to the proposal.
- 3.7 The Parking Standards document requires, for takeaway facilities, a maximum of 1 vehicle space per 20 square metres and a minimum of 1 cycle space per 100 square metres for staff, plus 1 space per 100 square metres for customers, a minimum of 1 powered two wheeler space and 1 per 20 car spaces and 3 disabled bays or 6% of total capacity, whichever is greater. In calculating the parking need it is considered appropriate to use the floor space

for the section to the front of the building, where the seating areas and bar are located on the approved drawings for application Reference: 13/00344/FUL, which equates to 32 square metres. Therefore, for an independent takeaway use there would be a need for 2 parking spaces, 2 cycle spaces, 2 powered two wheeler spaces and 3 disabled bays. However, the current proposal is for removal of a condition that would allow an ancillary takeaway facility to operate alongside the A3 use, not an independent takeaway. The site is also in a High Street location accessible by public transport. Bearing this in mind, it is not considered necessary to require off street parking for a takeaway element here. The existing High Street parking arrangements, which commonly include parking in the road, which is the case with many High Street locations, are considered acceptable.

#### 4 REPRESENTATIONS

- 4.1 ECC HIGHWAYS - De minimis. From a quick look there is no change to the existing parking.
- 4.2 ECC HISTORIC BUILDINGS & CONSERVATION - This application was not one requested by myself, nor does it relate to a conservation issue. I therefore have no observations to make.
- 4.3 RDC ENVIRONMENTAL SERVICES - No adverse comments.
- 4.3 LOCAL RESIDENTS - One response received (9 High Street), which can be summarised as follows:-
- I would like my objection to be known regarding change of use from A1 to A3.
  - It strikes me as though they are trying to come through the back door after being turned down regarding this matter a few times.
  - As you must understand we live in a Conservation Area and having two takeaways and the Co-op leaves a lot of unwanted mess. Also, if 32 High Street is allowed to open as a takeaway the added smell to this end of the village is unacceptable, i.e., the fish and chip shop and the Chinese and also tree fellas and the Indian.
  - It is bad enough having a flashing open light in the front window making it look like a disco on the sea front. If you allow this to happen the smell and mess would double. I object fully to allowing them to having a take way licence.

#### 5 RECOMMENDATION

- 5.1 It is proposed that the Committee **RESOLVES**

That the application be approved, subject to the following conditions:-

- (1) The development hereby permitted shall be begun before 29 July 2015.
- (2) The use of the site hereby permitted, shall not take place (whether or not open to customers) and no deliveries shall be taken at the site, outside the hours of 1000 to 2400.
- (3) Before the use hereby permitted commences at the site, details of the proposed external ventilation/filtration/extraction flues or measures to be installed at the site, including details of the external finish/colour, shall be submitted to and approved in writing by the Local Planning Authority. The measures as approved shall then be installed at the site prior to the use hereby permitted first commencing and retained at the site thereafter in accordance with the approved drawings at all times.



Shaun Scrutton

Head of Planning and Transportation

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### **Relevant Development Plan Policies and Proposals**

SAT6, SAT7, of the Rochford District Council Adopted Replacement Local Plan

CP2, T1, T3, T8, ED1 of the Rochford District Council Core Strategy 2011

National Planning Policy Framework

Parking Standards Design and Good Practice December 2010

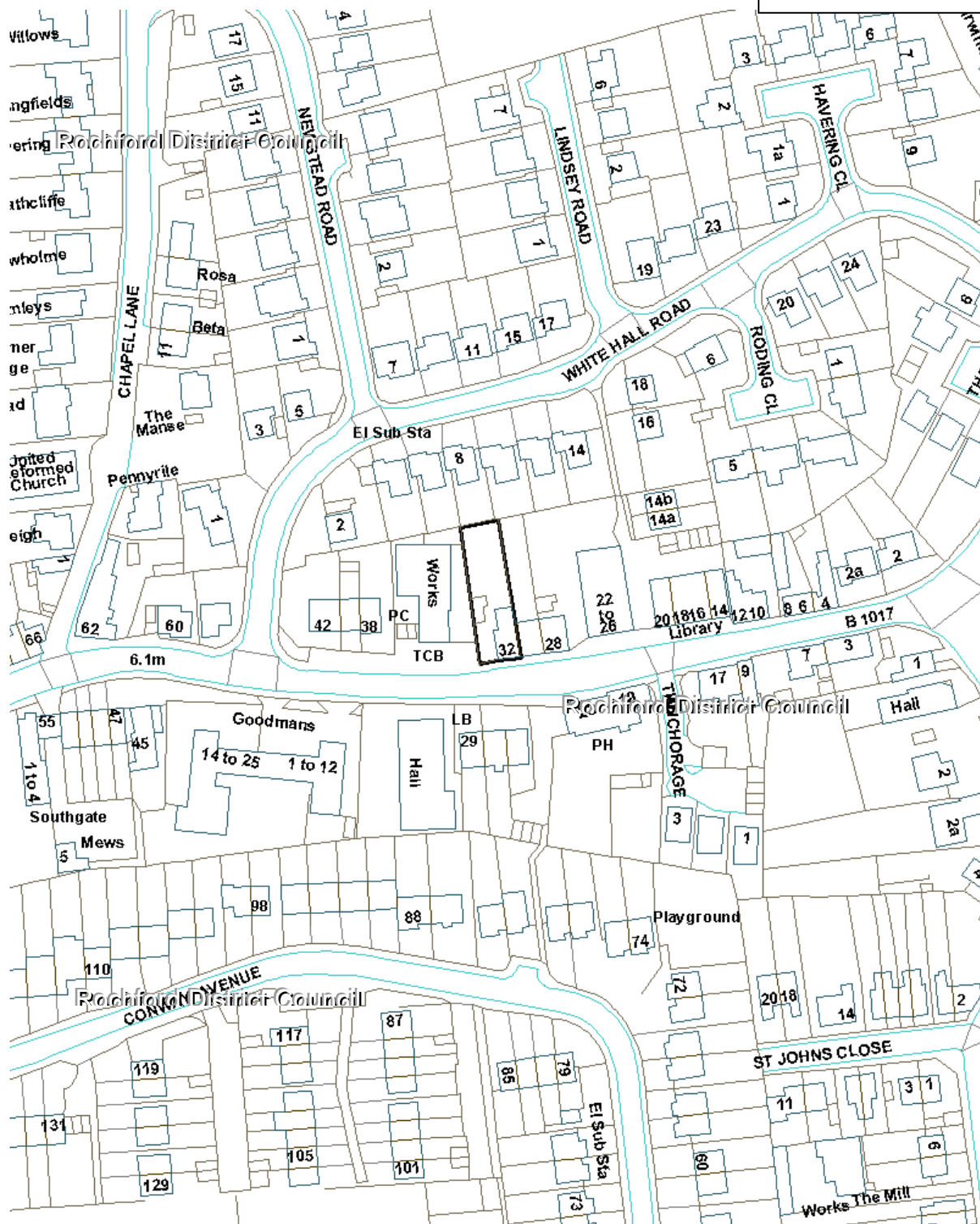
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13/000344/FUL



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