

SHERINGHAM - PF/24/1827- Change of use of ground floor former shop (Class E) to hot food takeaway (no specified use class), installation of extraction and ventilation equipment; external alterations to 10 Church Street, Sheringham.

Other Minor Development

Target Date: 30th October

Extension of time: 18th November

Case Officer: Alice Walker

Full Planning Permission

RELEVANT SITE CONSTRAINTS:

Settlement Boundary

Town Centre

Sheringham Conservation Area

Primary Retail Frontages Area

Primary Shopping Area

RELEVANT PLANNING HISTORY:

PF/17/1782

Conversion of existing storage area/office and existing flat to form 4 No. flats; replacement windows and external alterations

Approved 15.12.2017

PF/14/0740

Conversion of A1 (retail) shop and flat to two A1 (retail) shops and four flats

Approved 04.09.2014

PF/90/1213

Extension to Rear (Single Storey) Redecoration of Shopfront Fascia

Approved 31.08.1990

THE APPLICATION

The application seeks permission for a change of use of ground floor former shop (Class E) to hot food takeaway (no specified use class), and the installation of extraction and ventilation equipment and external alterations.

REASONS FOR REFERRAL TO COMMITTEE:

The item was called into Committee by Cllr Liz Withington – as ward member for the site. The item was called in on 23rd October 2024 and the grounds for call-in are:

“1. The application is in a particularly sensitive location e.g. the location is situation within the Sheringham Conservation Area.

2. The site is also in the heart of a predominantly independent and vibrant town centre

3. Allowing this application and further increasing the number of takeaways and eateries could potentially be a tipping point for the town and have a negative impact on the sustainability of

the Town Centre as a whole.

4. I believe this contravenes Policy EC5. The principle behind it of preventing Primary Retail Frontage Areas from becoming dominated by SUI GENERIS classified businesses; eateries, hospitality, betting shops, amusements etc., is very relevant here.

5. The National Planning Policy Framework in paragraphs 96-107 Promoting Healthy and Safe Communities states that planning policies and decisions should aim to achieve healthy, inclusive and safe places.

6. There are currently 14 red coded food outlets in Sheringham and if this application were to be approved it would be 15 and the 4th Pizza outlet in the town. If we are to support local health strategies in a meaningful way then we should be taking account of the NNPF guidance which is available to us.

7. I appreciate that the changes to the signage have been discussed with planners however I feel it is still not in keeping with our town and an area which supports Dark Skies. The town Council having included this in their 2019-2024 Town Plan and being in close proximity to Kelling Heath and Wiveton Downs Dark Skies points it is an asset to be protected. This I believe contravenes Policies EN2 and 4.

8. As Dominos acts predominantly as a take away and plans only 16 covers to include waiting as well this business will generate a considerable amount of waste. It is also bulky waste which cannot be currently recycled due to contamination from food. This will prove problematic for the town.

9. The level of public interest is so significant that I believe the application should be put before Committee. So far both Experience Sheringham (The Chamber of Trade) have expressed concerns and the Town Council also object.

I have considered the planning merits of the case carefully and would like to thank the Case officer for their support in understanding the intricacies of Policy EC5 but I do not agree with the Case Officer's conclusions.

(Note: Cllr Withington has also submitted a detailed representation on these two applications. That representation – as well as covering other matters - expands on and explains further - the 9 points above)".

REPRESENTATIONS:

9 representations have been made objecting to this application. The key points raised in **OBJECTION** are as follows (summarised):

- Proposal is out of character for Sheringham.
- Waste management is already an issue in high-season.
- Proposal will cause extra litter.
- Independent shops are being taken over by national chains.
- Frontage is too commercial.
- Shopfront not sympathetic to the Sheringham conservation area.
- Will affect other hot food take-aways close to the site.
- Already a lot of fast-food takeaways and pizza outlets in the town.
- Inaccurate information within planning statement.
- A change of use would lead to loss of valuable retail space.

- Illuminated signage on fascia is inappropriate in the town.
- Proposal may affect residential amenity in terms of noise and odour.

CONSULTATIONS:

Ward Councillor – Comments provided as above.

Sheringham Town Council – Object. The comments in summary are:

- Public Health England guidance on planning applications where there is considered to be a proliferation of food outlets and the potential adverse effect on public wellbeing.
- The overall adverse effect on the Sheringham Conservation Area noting the impact of the proposed changes to the shop front.
- Highways Concerns including parking.
- Amenity Concerns including litter, noise and odour.

Conservation and Design- Advice Given. The comments in summary are:

- The infilling of the left-hand side of the shopfront has been previously approved and continues to give rise to no 'in principle' concerns.
- The inset centralised entrance and the various compressors, extracts and intakes also raising no substantive concerns.
- The existing joinery is not of any particular age or significance. Instead, it has a relatively plain appearance which fails to make a positive contribution to the designated area. The submitted replacement would be a similarly plain affair, with a smooth powder-coated finish and presumed absence of any mouldings, it is likely to have a comparatively flat and uniform appearance.
- Whilst this would no doubt give it a contemporary corporate freshness, it would simultaneously create a rather clinical and characterless frontage which would be lacking in any local distinctiveness. For this reason, C&D are certainly not pre-disposed to support this part of the scheme.
- Having outlined our position, we are equally mindful of similar proposals in the past where aluminium shopfronts have been proposed (e.g. Iceland in Cromer and Stubby's in Sheringham). In such instances, 'less than substantial' harm was identified but ultimately was outweighed by other material considerations within the overall planning balance.
- Therefore, with a number of other units within the town featuring similar shopfronts (e.g. Sainsbury's, Specsavers, WH Smith's, Boots Pharmacy), it is questionable whether the relatively minor harm identified could amount to a sustainable ground for objection under para 208 of the NPPF.

Environmental Health - No Objection. The comments in summary are:

- The Philips Acoustics noise report (ref- 24058-002) is robust and sufficient to support the conclusions of the author.

- Satisfied the proposed plant (Aircon and refrigeration, oven extract and air supply) in combination with the specific mitigation proposed is sufficient to prevent noise amenity impacts in the immediate area. This is subject to the following stipulations:
 - The noise plant limits specified in section 4.3 of the report must be strictly adhered to.
 - The proposed attenuation specified within section 7, which includes noise reduction and vibration control must be installed and subsequently maintained in accordance with manufacturer requirements. In the likelihood that the attenuation equipment is changed, then any replacement installed must be sufficient to meet the plant noise criteria within section 4.3 of the Noise report.

NCC Highways - No Objection. The comments in summary are:

- Town Centre proposal close to car parks, limited waiting parking bays and transport connections.
- I am able to comment that in relation to highways issues only, that Norfolk County Council does not wish to restrict the grant of consent.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

LOCAL FINANCE CONSIDERATIONS

Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are not considered to be material to this case.

RELEVANT POLICIES:

North Norfolk Core Strategy (September 2008):

Policy SS 1 Spatial Strategy for North Norfolk

Policy SS 5 Economy

Policy SS 12 Sheringham

Policy EC 5 Location of retail and commercial leisure development

Policy EN 2 Protection and Enhancement of Landscape and Settlement Character

Policy EN 4 Design

Policy EN 8 Protecting and enhancing the historic environment

Policy EN 13 Pollution and hazard prevention and minimisation

Policy CT 5 The Transport Impact of New Development

Policy CT 6 Parking Provision

Material Considerations:

National Planning Policy Framework (December 2023):

Chapter 2 Achieving sustainable development
Chapter 4 Decision-making
Chapter 6 Building a strong, competitive economy
Chapter 7 Ensuring the vitality of town centres
Chapter 8 Promoting healthy and safe communities
Chapter 12 Achieving well-designed and beautiful places

Supplementary Planning Documents and Guidance:

North Norfolk Design Guide (2008)

OFFICER ASSESSMENT:

MAIN ISSUES FOR CONSIDERATION:

1. Principle of Development
2. Design and impact on the character of the area
3. Amenity
4. Environmental considerations
5. Highways

1. Principle of Development

Planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Policy SS 1 sets out that the majority of new development in North Norfolk will take place in the towns and larger villages, defined as Principal and Secondary Settlements and a smaller amount of new development will be permitted within in several designated Service and Coastal Service Villages. The rest of North Norfolk, including all settlements that do not fall under the above criteria, will be designated as Countryside.

The application site is located within the designated settlement boundary of Sheringham, which is classed as a secondary settlement with a "Small Town Centre" as defined by Policy SS 12 and SS 5 of the North Norfolk Core Strategy. The site is within the designated Town Centre, a Primary Shopping Area (PSA) and a Primary Shopping Frontage (PRF) and is a location where new main town centre uses including hot food takeaways are considered acceptable in principle.

The proposal is for the change of use from a retail shop to a hot food takeaway (no specified/ sui generis use class). Following amendments to the Town and Country Planning (Uses Classes Order) 1987 (as amended), the lawful use of the property as a retail shop now falls within Class E(a) whereas previously it was within Class A1. Hot food takeaways are now a sui generis use (i.e. not within a specified Class) rather than Class A5 as previously.

Policy EC 5 states Primary Shopping Areas and Primary Retail Frontages are defined in order to concentrate retail development in central areas of towns and to protect shopping areas. Within Primary Retail Frontages as defined on the Proposals Map, proposals that would result

in more than 30% of the defined frontage being used for non-A1 uses (as defined in the Town and Country Planning (Use Classes) Order 1987, as amended) will not be permitted.

The weight given to the restrictive aspect of this policy has become diminished following changes to the use classes order and GPDO allowing more flexibility between use classes and changes of use. As of September 2020, a number of categories of Use Class A were brought into Use Class E. Classes of A1 (shops), A2 (financial and professional), A3 (restaurants and cafes) as well as parts of D1 (non-residential institutions) and D2 (assembly and leisure) and puts them all into one new use class E and they can change between use class E uses under permitted development rights.

Whilst the site does lie within a Primary Retail Frontage, Officers consider that the recent changes to the Use Classes Order are drafted to enable greater flexibility in terms of changes of use within town centres. As such Officers consider that very limited weight should now be attached to this part of the policy.

Table 1 Breakdown of the use classes within the relevant Primary Retail Frontage (PRF) area.

No.1	Unit	Use Class E	Sui Generis
1	(proposed) Pizza restaurant and takeaway		x
2	Charity Shop	x	
3	Stationary shop	x	
4	Stationary Shop	x	
5	Bookmakers		x
6	Fish and chip Restaurant and takeaway		x
7	Pharmacy and shop	x	
8	Sandwich shop	x	
9	Building society	x	
10	Supermarket	x	
11	Outdoor Clothing shop	x	
12	Thai Restaurant and takeaway		x
13	Bakery	x	
14	Bookshop	x	
15	Charity shop	x	
16	Fish and chip takeaway		x
17	Carvery Restaurant and takeaway		x
18	Discount Shop	x	
19	Natural shop	x	
20	Coffee and ice-cream shop	x	
21	Café and fish bar		x
22	Amusements		x
23	Ice cream parlour	x	
24	Gift Shop	x	
25	Ice cream parlour	x	
TOTAL		17	8

** Footnote - Fat Ted's is not part of the PRF as it is set back in Barchams Yard.*

In any event, even if significant weight were to be attached to the 30% restriction of Policy EC 5 then there would be little harm from these proposals. The table above shows that of the 25 shopfronts within the specific PRF area that if the proposal were approved, then only 8 of the frontages would be sui generis. Given 30% of 25 is 7.5 and therefore rounded to 8 this would still comply with the policy requirement.

As noted in the objections, Public Health England have published guidance on how to use the planning system to promote healthy weight environments. The replacement of the A5 hot food takeaway use class with sui generis allows local authorities to have greater control, through using the planning application process, to prevent the proliferation of hot food takeaways. The Planning Practice Guidance (PPG) also supports actions, such as the use of exclusion zones, to limit the proliferation of certain unhealthy uses within specified areas such as proximity to schools and in areas of deprivation and high obesity prevalence. However, within the context of North Norfolk there is no current policy basis upon which to reject proposals within the Adopted Core Strategy, nor are there any within the emerging policies such as E4 or planned Supplementary Planning Documents (SPDs).

Overall, Officers consider the principle of a change of use to a sui generis hot-food takeaway in an existing retail unit within a town centre location to be acceptable and accords with policies SS 1, SS 12, SS 5 and EC 5 of the adopted Core Strategy.

2. Impact on the character of the area, heritage and design

The proposal seeks the change of use of 10 Church Street from a shop (Class C3) to Hot Food Takeaway (sui generis), the installation of extraction and ventilation equipment, signage (including 1 no. externally illuminated fascia sign and 1 no. internally illuminated hanging sign) and minor external alterations.

The site comprises part of a terrace of units located within the primary shopping frontage from 4-10 Church Street. These buildings are all three-storeys in height providing 3 no. Class E, retail units at ground floor level and residential premises above. The frontage to the application site has already been much altered, currently with a rather tired contemporary heavily glazed and timber design.

Minor shop front alterations are proposed to facilitate the use of the unit as a hot food takeaway. Alterations on the primary elevation will extend to the insertion of a new aluminium shopfront and entrance door finished in RAL 7043 (traffic grey). The infilling of the left-hand side of the shopfront has been previously approved and continues to give rise to no 'in principle' concerns, Officers consider it would help in reducing the overt horizontality in the shopfront and in balancing the similar door opening at the opposite end. With the inset centralized entrance and the various compressors, extracts and intakes also raising no substantive design concerns. The main issue for consideration is the replacement of the existing timber shopfront with an aluminium equivalent.

With regards to the replacement aluminium shopfront, as existing, the timber joinery is not of any particular age or significance. Instead, it has a relatively plain and tired appearance which fails to make a positive contribution to the designated area. However, rather than seeing this as an opportunity to reinstate character and enhance the street scene, the submitted replacement would be similarly plain. The proposed smooth powder-coated aluminium finish is likely to have a flat and uniform appearance. Whilst this would no doubt give it a contemporary corporate freshness; it would simultaneously create a rather clinical and characterless frontage.

Notwithstanding this, similar previous proposals set a precedent for the use of aluminium, with a number of other units within the town featuring similar shopfronts (e.g. Stubby's Pizza, Sainsbury's, Specsavers, WH Smith's, Boots Pharmacy). Given the shopfront as existing is of no particular merit and the precedent for the use of aluminium, officers would therefore consider that the relatively minor harm identified from this alteration would not amount to a sustainable ground for objection under para 208 of the NPPF.

The proposals show illuminated signage. The North Norfolk Design Guide states "*emphasis*

will continue to be on the discreet use of trough lighting rather than internally illuminated box signs and fascia's". Illuminated signage is evident in the surrounding area with externally illuminated signage in place at 4 Church Street (The Works) and Marmalades Bistro at 5 Church Street, opposite the site. Following concerns raised by officers the proposed internally illuminated signage has been replaced with an external trough lit sign, which is considered to be an improvement and in-keeping with the aims of Policy EN 4 and the North Norfolk Design Guide.

Overall, it is considered there would be some minor heritage harm to the Sheringham Conservation Area as a result of the proposed replacement aluminium shopfront. However, there are several other examples of aluminium shopfronts in proximity. On Balance the proposals are considered to comply with Policies EN 4 & EN 8.

3. Residential Amenity

Policy EN 4 states that proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers.

The site is located in a town centre location and is surrounded by a mixture of uses comprising of commercial and retail and residential units. The closest residential properties would be located in flats directly above the proposed hot food takeaway. There are further residential properties on the upper floors of the adjacent buildings. The hot food takeaway is proposed to be open between 11am to 11pm daily. This pattern is in keeping with opening times found in town centre locations.

The odour levels produced by the oven-baking cooking process used by the takeaway are relatively low compared to other food and drink uses such as deep-frying, the proposed extraction and ventilation equipment would be fitted with an odour suppression system and silencers to minimise amenity impacts.

A Noise Assessment report produced by Phillips Acoustics was submitted in support of the application along with the specifications for all of the plant equipment units including ventilation, extraction and air conditioning. Environmental Health Officers confirmed that the report is robust and sufficient to support the conclusions of the author.

Officers were satisfied the proposed plant (Aircon and refrigeration, oven extract and air supply) in combination with the specific mitigation proposed is sufficient to prevent noise amenity impacts in the immediate area. This is subject to the following stipulations:

- The noise plant limits specified in section 4.3 of the report must be strictly adhered to.
- The proposed attenuation specified within section 7, which includes noise reduction and vibration control must be installed and subsequently maintained in accordance with manufacturer requirements. In the likelihood that the attenuation equipment is changed, then any replacement installed must be sufficient to meet the plant noise criteria within section 4.3 of the Noise report. These requirements can be secured via condition.

With no objections raised by the Council's Environmental Protection Officer, the proposed development does not give rise to any environmental concerns relating to contamination, noise

or odour. Accordingly, subject to the imposition of conditions, the proposed development complies with Policy EN 13 of the adopted North Norfolk Core Strategy.

4. Environmental considerations

Waste management

The nature of the proposal is predominantly for a takeaway which would either be taken or delivered to customers homes to be eaten or, customers could also use the 16-cover restaurant area. Bins would be provided within the takeaway and restaurant and a commercial refuse storage area is proposed at the rear of the building, comprising separate 1100L bins for general waste and recyclables. Concerns have been raised in public representations regarding litter and use of plastic. The majority of food packaging used is cardboard and recyclable and the agent has provided a litter management strategy which can be secured by condition. Furthermore, the applicant has been advised that businesses require a Trade Waste contract to dispose of all waste associated with commercial activities as stated in the Environmental Protection Act 1990.

Light pollution

Concerns were raised initially by Officers regarding the use of internal illumination within the proposed signage. As noted above, the agent revised the proposed signage to be externally illuminated via a trough light, in accordance with the North Norfolk Design Guide.

Objectors note potential impacts at sensitive areas nearby, such as Kelling Heath and Wiveton Downs. However, the proposal is within industry standards of illumination levels and is located within a street-lit town centre location, with other illuminated shop fronts. Officers consider the proposed illumination would be unlikely to have any detracting effect on these areas and is entirely in line with expectation for a Medium District Brightness Areas (Zone E3).

Public Health

Concerns have been raised in the public consultation regarding the number of fast-food takeaways and matters relating to public health and obesity. Chapter 8 of the NPPF relating to promoting healthy and safe communities has been cited in these concerns.

Paragraph 96 of the NPPF sets out that:

“Planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which:

...

- c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.’

With regards to public health, there is no Core Strategy Policy that would restrict the provision of ‘fast’ or unhealthy food options on health grounds. Rather, the adopted and emerging retail planning policies are strategic and high level in nature covering the hierarchy of town centres and local centres. The emerging local plan does have Policy HC1: Health & Wellbeing, however it relates to new housing development of a minimum of 50 dwellings for completion of a Planning in Health Protocol.

Without any specific policy framework for framework for promoting access to healthier food, Officers consider Sheringham to be a sustainable location, with good access to public transport, walking and cycling provision and a number of public open areas for sport and recreation, and allotments that support healthy lifestyles for its inhabitants.

5. Highways

The site is located within an identified Small Town Centre which benefits from excellent pedestrian, cycle and public transport links placing the site in a highly sustainable and accessible location.

The application provides one designated parking space at the rear of the unit, there are also approximately a further seven on-street parking spaces available directly outside the site on Church Street, providing free parking for 45 minutes between 8am - 6pm Monday to Saturday with no return in 45 minutes. Further off-street parking is available in the public car park 'Morris Street' to the rear of the site which provides approximately 115 spaces.

Highways Officers were consulted on the application and concluded that the proposals benefited from a town centre location, close proximity to car parks, with on-street limited waiting parking bays and good transport connections. Officers would concur with this view that the proposals comply with Core Strategy Policies CT 5 & CT 6 relating to highway safety and parking provision.

Planning Balance and Conclusion:

The principle of a change of use from Class A to a Sui Generis Use in a Small Town Centre location is considered acceptable under Policy SS 1, SS 12 and SS 5 of the Adopted Core Strategy. Following changes to the Use Classes and GPDO the 30% non-A1 restriction set out under Policy EC 5 is considered to be diminished, in any event it is demonstrated that the proposal is still considered to be broadly compliant with this policy.

Officers identified some, albeit limited, heritage harm resulting from the replacement of the existing shopfront with an aluminium alternative. However, the existing precedent for this within the town and the public benefits of securing a viable use with the retention / creation of sixteen local full and part time jobs are considered to outweigh any limited heritage harm. There are no objections with regards to residential amenity or highways safety and parking impacts subject to conditional control. Overall, the application is considered acceptable, and Approval is recommended subject to the imposition of conditions.

RECOMMENDATION:

APPROVAL subject to conditions relating to the following matters:

- Time limit 3 years
- Development in accordance with approved plans
- Materials as submitted
- Extraction mitigation in accordance with noise report
- Opening hours
- Litter management plan

Final wording of conditions and any others considered necessary to be delegated to the Assistant Director – Planning