

REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE
14 April 2021

REFERENCE: HW/HSE/21/00009

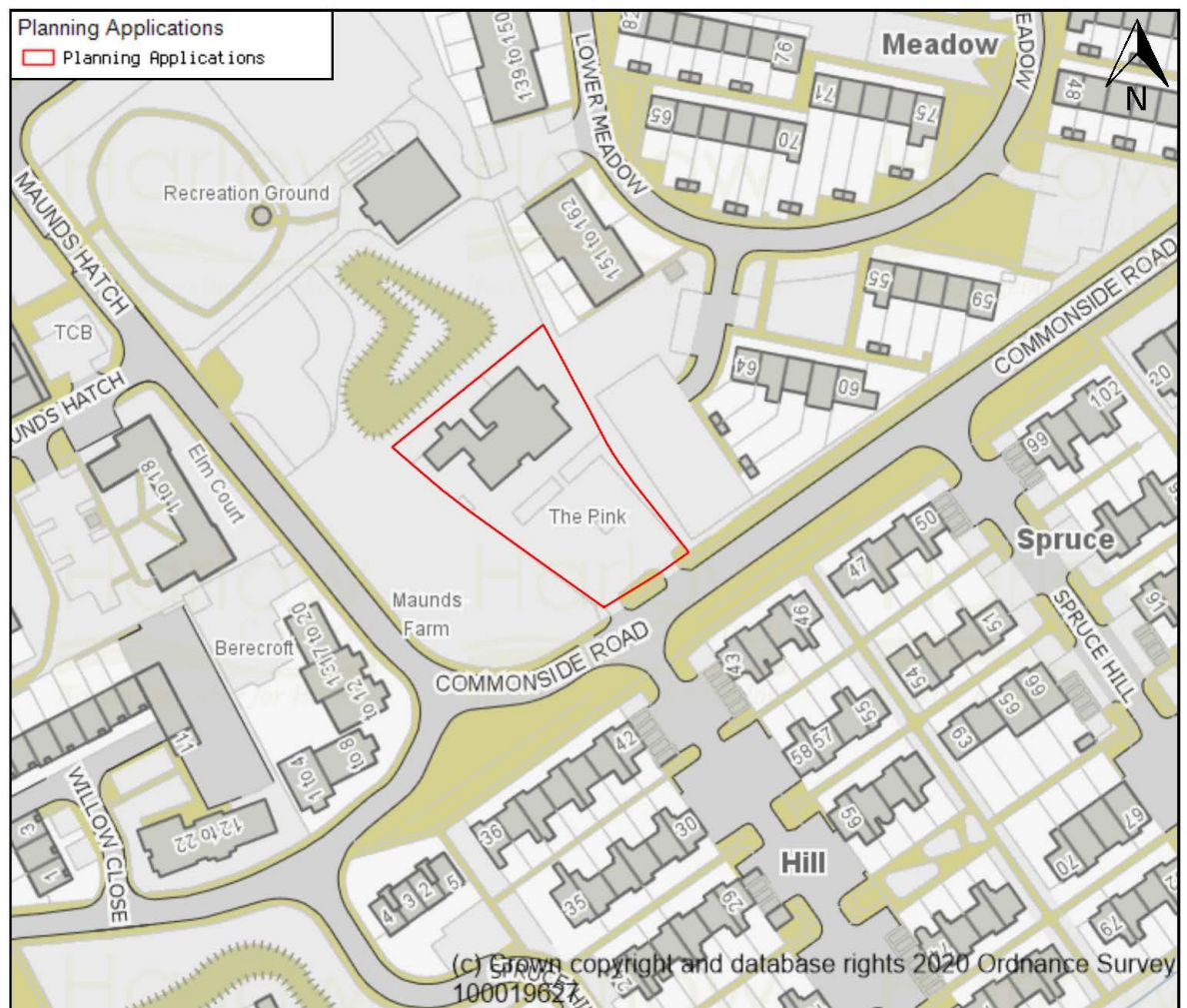
OFFICER: John Harrison

APPLICANT: Mr Ferhat Ozkan

LOCATION: The Pink Cottage, Commonsides Road, Harlow, Essex, CM18 7JB

PROPOSAL: Change of use and division of existing restaurant/takeaway into two units. One unit to be used as a takeaway and other to be a retail shop (Class E) with ancillary cycle and refuse storage.

LOCATION PLAN



Reason brought to Committee
More than two objections received.

Application Site and Surroundings

The application property is located at the western end of Commonside Road on the north-western side, close to the sharp bend where it becomes Maunds Hatch. The original property is a seventeenth century grade II listed cottage, but it has been significantly extended to the side and rear. The listing description reads:

“C17 house. Timber-framed of 2 storeys with fly-hipped peg-tiled ridged roof and 2 wings at the rear of full height. Central red brick chimney stack and another flanking the north east end wall. Plastered walls, and pairs of 6-pane wooden casements left and right on both storeys. The north-west end walls of the rear wings clad in black weatherboard.”

The authorised use of the extensions to the side and rear are as a restaurant and takeaway, though this part of the property is currently vacant. The authorised use of the original cottage is as a house of multiple occupation, apart from part of the ground floor which is used as a kitchen and staff toilet for the restaurant..

The building is set back from the road by 35 metres. The plot has a frontage of 22 metres, but it widens out to have a rear boundary 43 metres long. Its depth is 43 metres. The area in front is laid out as a car park.

To the south-east and north-west of the site is a recreation ground. To the north-east is the Lower Meadow housing estate with a row of trees separating the two. A former garage court is adjacent to the north-eastern boundary and the northern corner of the site is near a three-storey block of flats. The Spruce Hill housing estate is on the opposite side of the road.

Details of the Proposal

The application relates to the commercial part of the building, not the part in residential use. The proposal is to change the larger part of it to a retail shop with the remainder a takeaway. The plans indicate the shop would be a grocery store. The application forms indicate the retail floor area would be 198 sq metres and the takeaway 64 sq metres.

There would be a storage unit for a single cycle to the rear of the building, for the use of staff. Cycle parking for customers is located close to the north-eastern boundary. The refuse storage comprises two 1,100-litre paladin units behind the building, but as these would be on wheels and regularly moved, it is not considered these fall within the definition of development so do not need planning permission. The shop opening hours given on the form are 7am to 11pm all days and the takeaway would be open from 11am to 11pm all days. The application plans show 12 parking spaces in the car park, two of which are for disabled people.

As originally submitted, the proposal included a car wash use and associated canopy in the car park and the takeaway being a restaurant and takeaway. The application has been amended to remove these two elements.

RELEVANT PLANNING HISTORY:

Planning Applications

<u>App Number</u>	<u>Proposal</u>	<u>Status</u>	<u>Decision Date</u>
HW/ADV/21/00010	New internally illuminated totem sign and two externally illuminated shop (fascia) signs.	PCO	
93/00203	ERECTION OF TWO DETACHED FOUR BEDROOM DWELLINGHOUSES	REF	
93/00173	ERECTION OF 2 TWO STOREY FOUR BEDROOM DWELLINGHOUSES	REF	
HW/PL/09/00228	Installation of 2 No. Fascia Signs to Front and Rear Elevations and an Externally Illuminated Signpost on the Pavement at Point of Entry to the Site	GTD	16.11.2009
HW/PL/09/00053	Amended Description - Erection of Front Boundary Wall With Steel Gates And Railings And Erection of Awning And Canopy to The Front of The Restaurant	REF	24.04.2009
HW/PL/07/00148	Change of Use and Conversion of Store to Chinese Takeaway A5 Use	GTD	10.07.2007
HW/PL/05/00329	Construction of a New Single Storey Extension	GTD	25.11.2005
HW/PL/05/00328	Construction of a New Single Storey Extension	GTD	25.11.2005
HW/PL/05/00201	Construction of a New Single Storey Extension	REF	27.07.2005
HW/PL/05/00200	Construction of a New Single Storey Extension. Works to Include Demolition of Part of Existing Modern Building	REF	27.07.2005
91/00022	CHANGE OF USE OF BARN FROM FOOD STORAGE ANCILLARY TO RESTAURANT TO ADDITIONAL PREPARATION ROOM FOR PRE-BOOKED HOT FOOD DELIVERY SERVICE	GTD	21.03.1991

CONSULTATIONS

Internal and External Consultees

HDC Environmental Health Services

Please would you add an informatory note to this Planning Permission regarding the fire separation between the commercial and residential parts of the Pink Cottage must meet the minimum of 60 minutes fire resistance as required by Environmental Health Officer.

HDC - Cleansing And Environment

No Comment Received.

Essex County Council - Highways

Proposal is acceptable subject to a condition relating to parking and turning.

Heritage Officer Place Services

No objection to the dividing wall in the modern extension; scheme would be acceptable with omission of car wash canopy.

Essex Fire And Rescue Water Services

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and appears to be acceptable subject to satisfactory compliance with Building Regulations B5.

Neighbours and Additional Publicity

Number of Letters Sent: 22

Total Number of Representations Received: 5

Date Site Notice Expired: 19 February 2021

Date Press Notice Expired: 18 February 2021

Summary of Representations Received

Five representations have been made. They raise the following comments:

- Too much traffic on the road, if cars are having to queue will be dangerous especially as children play area next to it.
- In the past when the restaurant is busy the small car park can not cope with the number of cars and the overflow onto the road which is on a significant bend and into the Spruce Hill area itself .. As people visiting either ignore are unaware they in the past park in front of garages and hardstandings so people who pay for them can not use them.
- The other environmental issue is has already been raised by myself to environmental health dept. Since work started there were a lot of fires the Pink Spice were having almost every day even on a Sunday.
- This site has attracted some antisocial behaviour in recent years and I would support any development that reduces this occurrence. I would however raise the following issues to be considered when granting planning permission for the proposals.
- There is currently a sign on the site advertising "express food centre ,express takeaway, express car wash, accommodations to let" The planning application makes no reference to accommodation. Inquiries should be made as to what type of accommodation is proposed to see if this is acceptable e.g. HMO and what facilities are being provided to facilitate this proposal e.g. refuse storage car parking etc.

PLANNING POLICY

The relevant policies from the Harlow Local Development Plan 2020 are:

RS1 – Retail hierarchy

PL1 - Design Principles for Development PL2 – Amenity principles for development

PL7 - Trees and Hedgerows

PL8 - Green Infrastructure and Landscaping

PL10 - Pollution and Contamination

PL11 - Water Quality, Waste Management, Flooding and Sustainable Drainage Systems

PL12 – Heritage assets and their settings

PR5 – The sequential test and principles for main town centre uses

IN1 - Development and Sustainable Modes of Travel

IN2 – Impact of development on the highways network including access and servicing
IN3 – Parking standards

PLANNING STANDARDS

National Planning Policy Framework (NPPF) (2019) - sets out the Government's key economic, social and environmental objectives and the planning policies to deliver them. These policies will provide local communities with the tools they need to energise their local economies, meet housing needs, plan for a low-carbon future and protect the environmental and cultural landscapes that they value. It seeks to free communities from unnecessarily prescriptive central government policies, empowering local councils to deliver innovative solutions that work for their local area.

Supplementary Planning Documents/Current Planning Guidance

The Essex Parking Standards: Design and Good Practice (2009)

Summary of Main Issues

Issues to be considered in dealing with this application are impact on the listed building, impact on neighbours, retail policy and parking and road safety.

Impact on the listed building

Policy PL12 of the HDLP requires an assessment against national policies and sets out a number of criteria regarding how impact will be assessed. National Policy is set out in the NPPF and in this case the tests are set out in paragraphs 195 and 196. If harm is less than substantial, the harm should be weighed against the public benefits.

The application is for a change of use. No external alterations to the building are proposed (apart from advertisements which are the subject of a separate application). Whilst a new internal wall will be constructed, this is in the modern part of the building so will not affect the character of the building as a listed one. The car wash and canopy use have been deleted from the application as they would have been detrimental to the setting of the Listed Building. The cycle parking proposed at the rear is a relatively small structure and is well concealed. It would not significantly harm the setting of the listed building. Therefore, the proposal would not result in harm to the listed building.

This building is currently vacant and it is desirable to bring it back into use as soon as possible as having an economically viable will ensure its long-term future. The proposal does not include the residential element of the building which is, of course, the architecturally significant element of it, but it is understood the new owner will be making a separate application for this in due course.

Policy PL12 of the Local Plan requires consideration of proposals against the impact of development on the character, appearance, or any other aspect of the significance of the asset or its setting and other criteria. The proposal does not harm the building and indeed will help ensure its long-term future. Thus, the proposal is considered acceptable in terms of this policy.

Impact on neighbours

The proposal is considered acceptable in terms of impact on neighbours and therefore policy PL2 of the Local Plan. It is unlikely that the proposal will generate significant noise from within the building, but there will be noise generated from activities around the building such as deliveries being unloaded and customers coming and going. This will affect the houses opposite the site entrance most. The property already has a restaurant and takeaway use and the proposed retail and takeaway uses are not likely to generate significantly more noise, especially as the retail use is likely to have less late-night activity. At the moment the only hours restriction on the use is the takeaway should only operate between 7am and 11pm Monday to Saturday with no use permitted on Sundays and public holidays. The applicants propose Sunday opening and therefore a prohibition on Sunday trading cannot be imposed. Given the hours set down on the application, a condition restricting both the retail and takeaway uses to 7am to 11pm is recommended for all days except that the takeaway should not operate before 9am on Sundays.

Impact on the Vitality and Viability of Town Centres

Policy RS1 sets out the retail hierarchy with the Hatches serving specific local needs and providing for a range of community services. Policy PR5 details this policy further in that main town centre uses should be directed to town centres including hatches unless there are no suitable or available sites.

The proposal would be 198 square metres and would be located 150 metres from the Maunds Hatch. A sequential test has been submitted that demonstrates that the proposed use cannot be located within Maunds Hatch.

Given the limited size of the proposed shop and the location being so close to the existing hatch, the proposed use would serve local needs and would add to competition to the existing convenience shop within the hatch. On this basis the proposal would not result in harm to the vitality and viability of Maunds Hatch. The proposal would therefore be in accordance with policies RS1 and PR5 of the HDLP.

Road safety and parking

Essex County Council as Highway Authority have no objection to this application. There is an adequate area for parking and unloading in front of the store and the junction onto the road network is adequate. Although only 12 parking spaces are shown on the plan, the layout of the parking area is such that if more vehicles come to the site they could still park albeit not in one of the marked bays. The proposal is therefore considered to be acceptable in terms of policies IN2, IN3 and PR5 of the Local Plan..

Other issues

The proposed retail use is in the new Class E Use Class (the takeaway is not in any use class). This covers a wide range of uses including offices, light industry, nurseries and gyms. It is open to the Council to restrict the range of uses permitted on an application for a Class E Use by condition, but government advice is that this should only happen when there are exceptional circumstances. In this instance the property has a relatively large car park and is not particularly close to residential properties. Thus, no need is seen for such a condition in this instance.

CONCLUSIONS

It is important to ensure that this listed building is brought back into use as soon as possible. This proposal benefits the listed building in terms of bringing it back into use. The proposal is considered acceptable in terms of amenity impact, retail policy and road safety and parking. It is therefore recommended for approval.

RECOMMENDATION

Granted Planning Permission subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: In order to comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Prior to the commencement of the retail use, the cycle parking provision shown on the approved plans shall be made as shown on the plans. This provision and the parking area in front of the premises shall be retained in perpetuity for the development.
REASON;: In the interests of road safety and the free flow of traffic.

- 3 The retail use shall only operate between the hours of 7am to 11pm on all days and the takeaway 7am to 11pm on weekdays and 9am and 11pm on Sundays.
REASON: To protect the amenity of the occupiers of nearby residential properties.

4. Prior to the first occupation of the development the vehicle/cycle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.
Reason: To ensure that appropriate parking and turning is provided.

- 5 The development hereby permitted shall be carried out in accordance with the approved plans as shown listed in the table below.

REASON: For the avoidance of doubt and in the interests of proper planning.

Plan Reference	Version No.	Plan Type	Date Received
CR-0412-EGFP	--	Existing Ground Floor Plan	11.01.2021
CR-0412-EPFE	--	Existing & Proposed Front Elevations	11.01.2021
	--	Location Plan	11.01.2021
CR-4012-EPSE	--	Existing and Proposed Side Elevations	15.01.2021
CR-0412-PBP	--	Proposed Block Plan	16.02.2021

INFORMATIVE CLAUSES

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address these concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. Acceptable construction hours are between 8.00 and 18.30 on Mondays to Fridays and 8.00 and 13.00 on Saturdays. No construction work should take place or plant operated outside these hours.

3. It will be necessary to have 60-minute fire resistance between the residential and commercial elements of the building.