
APPLICATION NO.	18/01695/FULLN
APPLICATION TYPE	FULL APPLICATION - NORTH
REGISTERED	04.07.2018
APPLICANT	Mr Choudhry
SITE	1A Mylen Road and 61C Charlton Road, ANDOVER TOWN (HARROWAY)
PROPOSAL	Retrospective application - revised extraction system layout for odour control, 2 wall mounted condensers and to amend the internal layout, ceiling grilles and external elevations
AMENDMENTS	Amended Commissioning and Operating Manual, Extraction System and Layout Plan – 31.08.2018 Amended Commissioning and Operating Manual, Extraction System and Layout Plan – 25.10.2018 Amended Application Form 09.11.2018 Amended Application Form 12.12.2018 Revised description 15.02.2019
CASE OFFICER	Mrs Samantha Owen

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 The application is presented to the Northern Area Planning Committee at the request of the local ward members.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site is located in a small commercial area on the corner of Mylen Road and Charlton Road and is currently occupied by Pizza Hut. The building is a maximum height of 4.6 metres to the ridge and is adjacent to the residential property 1 Mylen Road and the access road to the commercial area. To the rear of the application site and part of the same building is a store for the Co-op retail unit and a Chinese takeaway. There is a small Boots pharmacy and café in a free standing building to the east of the Co-op building which also makes up part of the commercial area.

3.0 PROPOSAL

- 3.1 This application is retrospective and seeks permission for the extraction system as fitted, which differs from what was granted consent under 15/01745/FULLN. It also seeks to regularise the 2 wall mounted condensers on the rear elevation and amendments to the internal layout ceiling grilles and the external layout. This is detailed below.

- 3.2 The proposed changes are:
- Extraction system takes a different route through the building, with the odour control system located above the Co-op store. This has impacted upon the position of the ceiling grilles.
 - The internal layout of the building has changed with the shop counter and part of the kitchen swapping places.
 - Externally the air input grille has been relocated from the side of the building to the front of the building.
 - Regularisation of the 2 wall mounted condensers and associated cabling.

4.0 **HISTORY**

4.1 17/01368/VARN - To Vary Condition 2 (Approved Plans) of 15/01745/FULLN (Change of use from shop to hot-food takeaway, installation of extraction system and air attenuation supply, two wall mounted condensers and alterations to internal floor space and associated building works) to amend the internal layout, ceiling grills and external elevations. Closed as Invalid 19.04.2018.

4.2 17/00620/VARN - To Vary Condition 2 (Approved Plans) of 15/01745/FULLN (Change of use from shop to hot-food takeaway, installation of extraction system and air attenuation supply, two wall mounted condensers and alterations to internal floor space and associated building works) to amend the internal layout and ceiling grills. Closed as Invalid.

4.3 15/01745/FULLN - Change of use from A1 (shop) to A5 (hot food takeaway); allowance for the installation of extraction system for pizza oven and air attenuation supply to the property; installation of x2 wall mounted condensers to serve cold-rooms; Alterations to the internal floor space and associated building works. Permit 13.05.2018.

5.0 **CONSULTATIONS**

5.1 **Environmental Protection:** We have reviewed the retrospective application - revised extraction system layout for odour control and the documents provided. We refer to the System Specification sheet from Canopy UK dated the 25th May 2018. We would like to ensure that the system is maintained as specified.

6.0 **REPRESENTATIONS** Expired 01.08.2018

6.1 **Andover Parish Council: Objection.**

- Check application as local resident has raised concerns that the system installed is not as described in the application.

6.2 63 x letters of objection from 1, 2, 3, 4, 5, 6, 7, 8, 10A, 12, 14, 19, 22, 23A, 25, 30, 64 Mylen Road, Andover; 17 West Park, Appleshaw; 75, 100 Charlton Road; 31 Lubeck Drive, Saxon Fields; 2 Heath Vale, Andover; 45 Coachways, Andover; 7 Cuxhaven Way, Saxon Fields; 26 Fars Avenue, Andover; 12A Old Winton Road, Andover; 1 Ash Tree Road, Andover; 32 Mercia Avenue, Charlton; 31 Richborough Drive, Charlton; 17 Monxton Road, Andover and 34 Millway Road, Andover.

These letters object to the application on the following grounds:

Extraction System

- Supporting documentation is incorrect, system specification states one type of silencer but this does not correspond with what it is said has been fitted.
- System Specification Sheet does not cover any maintenance aspects so Environmental Protection cannot require this to be conditioned for maintenance.
- Design and layout of equipment not part of the odour control system has changed both internally and externally.
- Equipment fitted to the odour control system has changed as well as the layout of the system.
- Extraction system cannot be fitted with the controller quoted.
- Incorrect plans/supporting information regarding air intake grille, ceiling grilles, outlet grilles, air make up into the building.
- Proposed floor plan layout is incorrect in relation to the air in box and system specification sheet is incorrect.
- When resolution is reached there should be some clear control by TVBC on maintenance.
- Noise and odour assessments of the newly installed odour control system should be carried out to measure impact on flats above Co-op.
- Variations between the Canopy UK Commissioning and Specification Sheets.

Other Matters

- Application does not cover the scope of the breach of planning conditions identified previously and listed in the two applications.
- Design and layout of the shopfront has changed.
- Design and layout of the internal store has changed.
- Inaccuracies and omissions on the application form.
- The red line has changed since the original application.
- This application does not cover the scope of planning condition breaches identified in previous applications.
- Need to control trading and delivery times.
- The previous occupier (Nelson Mobility) traded from 1A, yet this application for the same unit is 1B, this needs investigating.
- TVBC created 1B Mylen Road.
- Will insurance and safety certificates be valid if they relate to the wrong address.
- Application form states work on the building was completed on 14.11.2016, this is incorrect as work was ongoing until May 2018.
- The revised application form still has errors contained within it.
- Errors in documentation and the fact they have been in breach of planning for nearly two years raises questions themselves.
- Lack of documentation on website following revised description.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

COM 2 – Settlement Hierarchy

E1 – High Quality Development in the Borough

E8 – Pollution

LHW4 - Amenity

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Odour Control
- Other Matters

8.2 **Odour Control**

Policy E8 of the RLP states the following;

Development will be permitted provided it does not result in pollution which would cause unacceptable risks to human health, the natural environment or general amenity. Development that would or could potentially generate pollution will only be permitted if it can be demonstrated that there would not be an adverse impact on human health, the natural environment or general amenity.

Development which is sensitive to pollution will only be permitted if the intended users are not subject to unacceptable impact from existing nearby uses having taken account of proposed mitigation measures.

8.3 The application for the extraction system seeks to minimise the cooking odour that is expelled to the outside. Pizza Hut relies on the oven cooking of its products with no requirement for frying and this would be conditioned. Under 15/01745/FULLN, plans showed the layout of the extraction system passing through the building before being expelled externally through a three stage odour control system. Following an investigation by Planning Enforcement it was discovered that the extraction system was not fitted in accordance with the application details. This current application seeks to regularise the extraction system. The extraction system takes a different route through the building passing through a two stage odour control system before being expelled. Environmental Protection raised no objection. It is considered that the extraction system is in accordance with Policy E8 of the RLP.

8.4 Since the original planning permission for the Pizza Hut was granted, the offices above the Co-op have been given permission to be converted into flats. Concern has been expressed by third parties that there has been no consideration of the impact of odour on these flats. The cooking method of baking the pizzas is low odour and Environmental Protection raised no objection to the revised extraction system. Environmental Protection received

complaints regarding odour in the past but these were investigated and no action was taken as there was no evidence to substantiate the complaint. The flats are a distance from the site and with residential properties closer not registering an odour problem it is considered that the occupants of these flats would not be subjected to unacceptable odour.

8.5 Third party concern has also raised the issue of noise from the proposed extraction system and how this may impact on the flats that are now located above the Co-op. Planning application 15/01745/FULLN was supported by a Noise Assessment for external plant, which included a new fresh air intake, extract fan located internally with discharge at the flat roof area to the rear and 2 condenser units to support the refrigeration units. Although the air intake grille has moved from the side of the building to the front of the building, all the plant and extraction system to the rear has remained the same as previously shown under 15/01745/FULLN. The Noise Assessment was largely concerned with the noise from the condenser units and considered noise at the nearest houses to the Pizza Hut namely 1 Mylen Road directly adjacent to the Pizza Hut and number 59 Charlton Road to the rear of the small Boots outlet. The Noise Assessment concluded that the night time noise level was 29dB at 1 Mylen Road and 25dB at 59 Charlton Road. Noise from the combination of all operational plant relating to the Pizza Hut is 20dB which is 9dB below the night time limit and would be below daytime noise levels which are generally higher than night time noise levels. This was conditioned on the 15/01745/FULLN planning application which is still enforceable.

8.6 **Other matters**

Third parties have raised a number of other matters and I will deal with each in turn.

Incorrect Information

The application has been required to be amended as there were anomalies and inaccuracies within the following documents;

- Commissioning and Operating Manual.
- System Specification Sheet.
- Application Form.
- Plans.

The anomalies and inaccuracies are:

- Specification of Silencer is incorrect.
- Specification of Extraction Fan is incorrect.
- Air Intake Grille is shown as different sizes in different documents.
- Fan duty time is incorrect.
- Dwell time for the odour control system is incorrect.
- Cowl velocity has changed.
- Air In box is shown differently on submitted plans.
- The loft plan and the floor layout and extraction plan show different numbers of air input grilles.
- Lot of changes to the building are not on the application.
- Application Form shows incorrect applicants address.

- Section 3 of Application Form incorrectly filled out as work did not finish on the building on 14.11.2016 but in August 2018.
- Section 18 is incorrect as the extraction system is within space leased to the Co-op for storage.

These anomalies and inaccuracies have now been resolved and it is considered that the information relating to the application is acceptable and allows the Local Planning Authority to make a decision.

8.7 Incorrect address.

The application address for the Pizza Hut was originally described as 1B Mylen Road, which is consistent with other recent applications on this site. Third party correspondence raised the issue that the previous tenants of this unit used the address 1A Mylen Road. Concern was expressed that this made the application invalid as it was not clear what unit was being referred to. The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires applications for planning permission to show the site that is the subject of the application to be outlined in red so that it can be easily identified. The red line has clearly shown, in this case, which unit was the subject of the application and as such the application is valid and a decision can be made by the Local Planning Authority. The postcode for the application SP10 3HJ is attached to 15 addresses one of which is 1A Mylen Road, 1B Mylen Road was not an address that had been registered with the Post Office and it was considered that a more accurate application address would be 1A Mylen Road and 61C Charlton Road. 61C Charlton Road was included in the address as the external fittings of the extraction system are fitted to the rear of number 61C Charlton Road.

8.8 Delivery and Trading Times

The original application 15/01745/FULLN conditioned delivery and trading times which is still enforceable and as such it does not need to be conditioned under this application.

8.9 Planning Breaches

There has been third party concern that this application does not cover all the breaches that have been raised during the previous applications. The previous variation application was for Variation of Condition 2 of 15/01745/FULLN. Third party concern was raised on these previous applications that they did not cover Condition 7 of 15/01745/FULLN of this permission which was concerned with ensuring the odour control work was carried out in accordance with the system specification sheet produced by Canopy UK. This application seeks to regularise the current extraction system and as such a similar condition as the original Condition 7 has been attached. The original conditions as attached under 15/01745/FULLN that refer to matters that are not the subject of this application are still enforceable.

8.10 Internal and External Layout

Concern has been expressed by third parties that changes have been made to the elevations, shopfront and internal layout has changed. These changes have been included within the revised description as changed on the 15 February 2019 and are reflected on the submitted plans. The current application reflects the internal layout of the building as it now is. Externally that have been a couple of small changes, these are the relocation of the air intake grille and a cable track to serve the condensers on the rear of the unit. The air intake grille has been shown in its correct location on this application as it is part of the odour control system. The two wall mounted condensers and associated cable track have been included in this application. It is considered that these changes are relatively minor in nature and they are not considered to be harmful to either neighbouring uses or the wider streetscene. It is considered that the internal and external layout is in accordance with policy E1 of the RLP.

8.11 Red Line

Third party concern has been raised that the red line has changed since the original application. The red line now encompasses 1A Mylen Road, the Co-op store and 61C Charlton Road as the extraction system passes through or is attached to all of these units. This application is for full planning permission and as such there is no requirement for the red line to be the same as those applications that have preceded this one. The red line as shown is considered appropriate to this application.

8.12 Insurance and safety certificates

Concern has been expressed that as the application referred to the wrong address, would this mean that the insurance and safety certificates that the company may hold for this site are invalid. This is not a planning consideration and would be for the owners of the business to be satisfied that all safety and insurance certificates were correct.

8.13 New description and lack of documentation

Concern has been expressed by a third party that when advertising the amended application description the letters and site notices indicated that there was documentation that could be viewed, however when viewing the application there was no documentation on the Council's website. In this case there were no updated plans or forms, as it was purely for a change in description. The letter or site notice made no suggestions that there were updated plans or further documentation. The plans that are online are the current plans and if read in conjunction with the description it can be seen that all elements described in the description are on the plans.

8.14 **Planning Conditions**

The original application 15/01745/FULLN remains in tact, and governs the use of the premises, save for condition no. 7 which relates to a different extraction system to that which has actually been installed and is discussed in paragraph 8.10 above. The current application is for retrospective works and as such the odour control system is in situ and will be conditioned to be retained this condition would also restrict frying on the premises.

8.15 Environmental Protection requested a Condition that required the odour control system to be maintained and records kept on a rolling two year basis. Planning Conditions need to meet six tests as set out in paragraph 55 of the NPPF 2019. The NPPF advises that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The lack of maintenance of the odour control system is likely to result in odour being emitted from the premises. Consideration needs to be given to the fact that 15/01745/FULLN was implemented without any odour control system having been fitted and no complaints regarding odour nuisance were received during this period. A two stage odour control system has now been fitted. Conditioning its maintenance to stop potential odour nuisance would not be reasonable or necessary. It has not been demonstrated that there is necessarily a correlation between maintenance and odour nuisance with this particular use and location. If odour does become a nuisance and complaints are received in the future there is non-Planning legislation available to address this.

9.0 CONCLUSION

9.1 It is considered that the revised route of the extraction system through the building and expelling through a two stage odour control system is acceptable and would protect local residents from unacceptable odour in accordance with Policy E8 of the RLP. A number of other matters have been raised on this application and it is considered that these are now resolved to an extent that the submitted scheme can be approved.

10.0 RECOMMENDATION

PERMISSION subject to:

- 1. The Odour Control System as shown on the layout plan 14.0164 REV E and the System Specification Sheet from Canopy UK received 25.10.2018 shall be retained whilst the permitted Class A5 use occupies the premises. No frying shall take place on the premises. Reason: In the interests of the amenity of the occupiers of nearby properties and in accordance with policy E8 of the Test Valley Borough Revised Local Plan 2016.**

Note to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to paragraphs 186 and 187 of the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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