

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

3rd September 2008

AUTHOR/S: Executive Director / Corporate Manager - Planning and Sustainable Communities

S/0800/08/F - BOURN

Change of Use from Public House and Restaurant to Restaurant with Takeaway at The Duke of Wellington, Alms Hill, Bourn for Mr Miah

Recommendation: Delegated Approval

Date for Determination: 1st July 2008

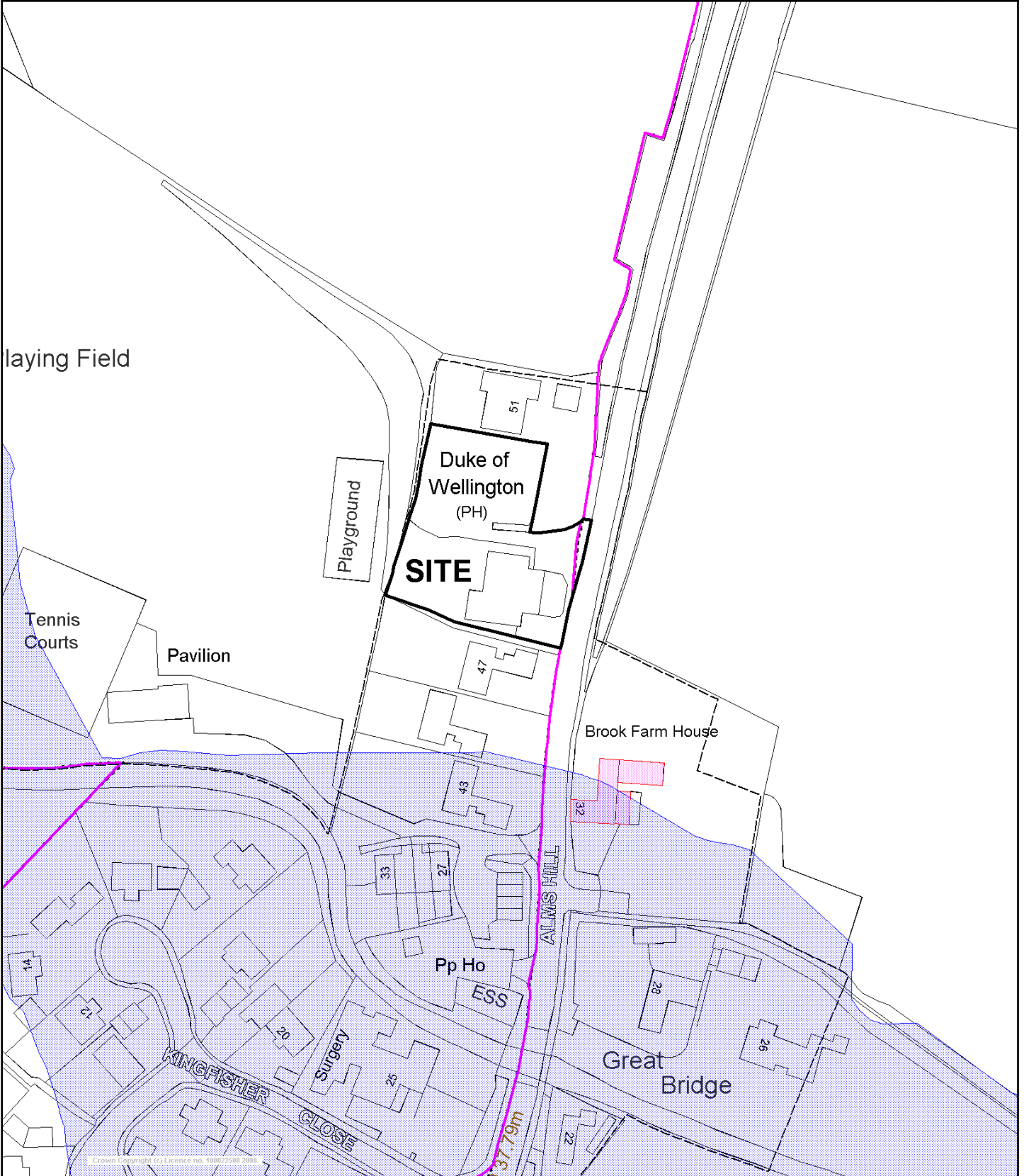
Notes:

This Application has been reported to the Planning Committee for determination as requested by the Local Member.

**Members will visit this site on 3rd September 2008
Adjoining Conservation Area**

Site and Proposal

1. The site is the Duke of Wellington Public House, located at the north end of Bourn village, within the village framework. The site is also adjacent to the Bourn Conservation Area, which runs along the front of the site. The public house sits to the south of the plot, with an access to its north leading up a driveway to the associated car park. There is currently a beer garden to the rear (west) of the pub. The building is two-storey in height, with a flat roofed single storey extension to the sides and rear. There is a further access to the south of the building, which is used for deliveries, where there is access to the cellar and kitchen.
2. Trading for the Duke of Wellington has currently ceased. The application, received 6th May 2008 proposes the change of use from public house and restaurant to restaurant with takeaway. The lounge and games room at the front of the building would be converted into more restaurant space, and a takeaway and waiting area would be located in place of the existing public bar area. No external alterations to the building are proposed.
3. To the north and south of the building are residential properties, nos. 47 and 51 Alms Hill. Both are located relatively close to the site. No. 47 has a public footpath running between it and the public house, which leads to the recreation ground to the rear. Alms Hill slopes down north to south into the village. At the point of the Duke of Wellington, the speed limit is 40mph. This reduces to 30mph by the south side of the public house. The access to the site is existing, and the car park has the capacity for 18 vehicles.



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Scale 1/1250 Date 20/8/2008

Centre = 532500 E 256872 N

September 2008 Planning Committee

Planning History

4. **S/1926/07/F** – Change of Use from Public House to Residential. The application was refused on grounds of a lack of marketing being carried out due to the loss of a community provision within the village.
5. There are various other previous applications on the site not relevant to the determination of this application.

Planning Policy

6. **Policy DP/3** (Development Criteria) of the Local Development Framework Development Control Policies (LDFDCP) 2007 states all development proposals should provide, as appropriate to the nature, scale and economic viability, appropriate access from the highway network that does not compromise safety, and car parking, which should be kept to a minimum. It adds planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity and on village character.
7. **Policy SF/1** (Protection of Village Services and Facilities) of LDFDCP 2007 states planning permission will be refused for proposals which result in the loss of a village service including village pubs, where such loss would cause an unacceptable reduction in the level of community or service provision in the locality.
8. **Policy CH/5** (Conservation Areas) of the LDFDCP 2007 states planning applications for development proposals in or affecting Conservation Areas will be determined in accordance with legislative and national policy. Government Policy in PPG15 (Planning and the Historic Environment) indicates that development to be carried out in a Conservation Area must give a high priority to the objective of preserving or enhancing the character or appearance of the area.
9. **Policy NE/14** (Lighting Proposals) of the LDFDCP 2007 requires developments, which include external lighting, should ensure the proposed lighting scheme is the minimum required for reasons of public safety and security, and there is no unacceptable adverse impact upon the neighbouring or nearby properties or on the surrounding countryside.
10. **Policy NE/15** (Noise Pollution) of the LDFDCP 2007 states planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development.
11. **Policy NE16** (Emissions) of the LDFDCP 2007 requires development proposals to have regard to any emissions arising from the proposed use and seek to minimise those emissions to control any risks arising and prevent any detriment to the local amenity by locating such development appropriately.
12. **Policy TR/2** (Car and Cycle Parking Standards) of the LDFDCP 2007 requires car parking to be provided in accordance with the maximum standards set out, to reduce over-reliance on the car and to promote more sustainable forms of transport. These maximum standards are 1 car space per 5 m² of gross floor area for a restaurant, 1 space per 10 m² for pubs and bars, and takeaway parking will be judged on merit.

13. Planning Policy Guidance 24, "Planning and Noise", states at Para 20 (Annex 3):

"Commercial developments such as fast food restaurants, discos, night clubs and public houses pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the attendant problems of noise that may be made by customers in the vicinity. The disturbance that can be caused by traffic and associated car parking should not be underestimated".

Consultation

14. **Bourn Parish Council** – Recommends refusal and expresses concern that this application would result in a permanent loss of an amenity in the village, which would go against the opinions expressed in the recent village survey. Also concerns over increased levels of noise, traffic and littering.
15. **Conservation Officer** – The site is just outside the Conservation Area and there is a Listed Building located opposite the site. There is no impact to either, but the proposal does not provide any enhancement to the area. Request that further consultation takes place if external alterations are proposed to the building itself. Conditions should include any extract systems required.
16. **Local Highways Authority** – Requests a condition regarding 2.0m by 2.0m visibility splays to be included within the curtilage of the site to be kept clear of obstacles exceeding 600mm high. Also requests a condition to allow manoeuvring space to be kept clear to enable vehicles to leave in forward gear. The parking area shall be retained as such, with spaces marked out on the ground and hard surfaced, with each space measuring 2.5m by 5m with a 6m reversing space. Loading and unloading areas should also be defined. Concern is expressed that there is insufficient traffic flow figures generated as a result of this application and subsequent traffic impact on the surrounding highway network in order to determine the application. Recommends informatives regarding works to the Public Highway, and the provision of a contribution for a possible Traffic Regulation Order to prevent parking on the publicly maintainable highway under a Section 106 Agreement.
17. **Environmental Health Officer** – is unaware of any existing or outstanding complaints relating to the site. He recommends a temporary consent for the takeaway element for 12 months in order to monitor the proposal. He also recommends conditions regarding details of power plant or equipment for the control of odour, delivery times and external lighting.

Representations

18. Letters have been received from occupiers of 11 local properties, including nos. 47 and 51 which are the direct neighbours to the site. These residents object on the scheme. These are on the grounds of:
- (a) Out of character with the rural nature of the village and the weakening of the distinction between town and country
 - (b) Lack of need for such a business
 - (c) The presence of other food outlets in the village, including The Willow Tree, Bourn Golf Club and the Source Coffee Shop, and other takeaways in Cambourne, Eversden, Longstowe, Hardwick, Toft, Papworth and Caxton
 - (d) Increased movement of people, vehicles and congestion

- (e) Lack of parking for staff and visitors and potential for vehicles to park on the highway
- (f) Highway safety as the site is within a 40mph zone, with other accesses close by.
- (g) The potential for the access to no. 51 to be blocked by waiting vehicles
- (h) Unsocial hours of opening
- (i) Noise disturbance
- (j) Harm caused by cooking smells
- (k) Potential increases in levels of litter and waste, with greater potential for littering at the adjacent recreation ground
- (l) Impact upon the adjacent Conservation Area
- (m) The personal circumstances of the existing occupiers of the building, who would have to leave
- (n) Devaluation to local properties

Planning Comments – Key Issues

- 19. The public house is currently a mixed use as a public house (Class A4) and a restaurant (Class A3). Members should note that planning permission is not required for the conversion of the public house element to restaurant use, as this is permitted development. Whilst this is important in some aspects of this decision making process, Members must look at the planning merits for the takeaway use only and the impacts its intensification of use would have upon the site.
- 20. The main issues regarding the application relate to the impact upon highway safety and parking, the impact of the proposal on the amenity of occupiers in adjacent properties, the impact upon the adjacent Conservation Area, and the other issues raised by the local objectors mentioned above.

Impact upon highway safety and parking

- 21. As stated, the site is at the northern end of the village. Alms Hill is a 40mph road, slowing to 30mph to the south side of the site. The access into the car park is existing and could be used for the restaurant at any time in the future without the Local Planning Authority having any planning controls. The use of the access and associated parking will increase as a result of an additional takeaway element. However, the access itself is considered acceptable. I note the comments from the Local Highways Authority regarding 2.0m by 2.0m pedestrian visibility splays. This can be added as a condition to ensure that this level of visibility is permanently achieved at the junction with Alms Hill. The delivery access is separate to the public access, and this would again remain in use for deliveries in order to access the cellar and kitchen areas.
- 22. The site currently has 18 available parking spaces. The area is currently gravelled, with the arrangement informal. The Council's maximum parking standards show a greater need for parking spaces for restaurant uses when compared to public houses. If built from new, a restaurant of this size would require a maximum 23 parking spaces. The applicant also states 8 members of staff would be employed on site, although some would reside in the flat above. The parking requirement is short of the maximum standards highlighted in the Local Development Framework. Again, Members should note that the restaurant could be used with this provision of parking without planning permission.

23. The Local Development Framework states maximum parking levels for takeaways will be on merit, and no figure is given as guidance. Negotiations have taken place with the applicant for additional parking. A scheme was submitted showing one additional space opposite the access to no. 51, with two further spaces where the current delivery area is. This was not accepted as an amendment as the Local Highway Authority does not wish to see the delivery access being used by the public as there is very limited turning space. It is hoped a further revision will be available for Members to see at Planning Committee. Four/Five additional spaces are proposed for staff parking on land currently used as the pub garden. This would not be available for the public to use and would not hinder the existing 18 spaces on site. The provisions should also ensure the access to no. 51 Alms Hill remains unaffected. It is therefore considered that, with the addition of further parking on site, the scheme would have enough on site parking to cater for the restaurant and takeaway.
24. The nature of takeaway uses may encourage members of the public to park on Alms Hill whilst collecting orders. This is not encouraged by the Local Highways Authority given the speed of traffic on the road. Additional parking spaces should remove the requirement for this. However, the Local Highways Authority may wish to enter into an agreement with the applicant for a contribution towards a Traffic Regulation Order to prevent parking on the publicly maintainable highway. This requirement can be added as an informative to the consent, if approved.
25. I note further comments from the Local Highways Authority on the issue. A condition can be added to ensure the manoeuvring space is maintained at the car park, which will require spaces to be physically laid out on site. I do not consider it reasonable to condition that the site be changed to a hardstanding, given the existing gravel use. This would not restrict the marking of the spaces. The delivery area will be retained as such, and a condition can ensure no public parking is allowed in this area.

Impact of the proposal on the amenity of occupiers in adjacent properties

26. There are two main issues raised by occupiers of the adjacent dwellings, namely increase in odours and noise as a result of the proposal. I will firstly look at the issue of odours. Again, the restaurant use could occur without planning permission. The amount of cooking will increase as a result of the intensity of use at the site. Members should therefore note that, given the shared kitchen on site, it is very difficult to comprehensively state that the takeaway element would be the cause of any increased odours rather than the permitted restaurant use. There are no internal changes proposed to the food preparation or kitchen areas, which are within a single storey wing near the boundary with No. 47.
27. I note the comments from the Environmental Health Officer regarding the issue of odours. He recommends a condition regarding details of equipment, including those used for ventilation and odour extraction. The existing equipment may be adequate, but a condition can ensure this is the case. Notwithstanding this condition, I feel the recommendation of a 12 month temporary consent is reasonable to ensure that equipment operates efficiently. A similar approach was adopted at The Swan House Inn, Fowlmere, where a 12 month temporary consent was granted for a take-away use on 31st October 2007 (S/0191/07/F).
28. The takeaway element will increase journeys to and from the site, and is likely to cause an increase in noise. The site is within the village framework, and as a result, not all trips would be using motor vehicles. Given the nature of the takeaway, it is unlikely that customers would eat outside, rather they would take the food home for consumption. I note there are concerns that food will be consumed on the adjacent

recreation ground. Again, this may be the case in small numbers, but the majority of takeaways are likely to be eaten in the home.

29. The neighbouring dwellings have experienced the noise and disturbance caused by the public house and restaurant use. The conversion to restaurant use is not likely to significantly change any noise at the site. The takeaway element will attract more visitors. However, given the waiting area is internal, impact from external noise and disturbance is not considered to significantly harm the amenity of the occupiers of neighbouring properties.
30. I note the comments from the Environmental Health Officer regarding conditions about delivery times and external lighting. Neither is currently controlled through any previous planning condition, and the application gives an opportunity to regularise these issues. Given the opening times of the public house, a condition ensuring no takeaways are collected after 11pm should not cause any significant increase in late night noise at the site. It is considered unnecessary to condition the opening times of the restaurant given the lack of previous conditions relating to the public house/restaurant. A separate licensing application has been submitted regarding these timings. A similar approach was adopted at The Swan in Fowlmere with the hot food takeaway not being open to customers other than between the hours of 11.00 to 23.00 Monday to Saturday and 11.00 to 22.30 on Sundays.

Impact upon the adjacent Conservation Area

31. As previously noted, the Bourn Conservation Area boundary runs along the front of the site, and therefore the building lies outside this designation. I note the comments from the Conservation Officer with regard to the relationship between the two. An informative is considered appropriate to ensure the correct procedures are taken regarding any additional signage that may be required by the new business use. I note that a number of local residents note that the takeaway would urbanise the village and would be out of character. As the takeaway would be located within the existing building, there would be no change to the exterior of the building, and therefore it cannot be physically out of character with the village.

Other Issues

32. There are local concerns about the potential increase in litter from the proposal. As previously noted, the majority of users would take their food home for consumption, and therefore litter would not be an issue. The potential for litter does increase for people visiting on foot. The applicant should therefore ensure there is adequate on site litter facilities. Details of a scheme to be implemented before the use commences could be the subject of a condition.
33. Some of the issues highlighted by the public in relation to the planning application are not material planning considerations. These include the lack of need for the takeaway, the location of other food outlets in the area, and the possible devaluation of house prices in the area. The retention of the building as a restaurant and takeaway retains a community provision in line with the requirements of Policy SF/1 of the LDFDCP 2007. The personal circumstances of the existing residents, although unfortunate, are again not a material planning consideration. The Parish Council also notes that a recent village survey would be against the loss of the public house. The amenity would be retained, although the survey itself carries no weight in the decision making process. Moreover there remains a public house and restaurant elsewhere in the village. This is a criteria of relevance in the determination of applications in accordance with Policy SF/1 of the Local Development Framework.

Recommendation

34. Delegated Approval subjected to a revised parking arrangement.

Conditions

1. The hot food takeaway use, hereby permitted, shall be for a temporary period of 1 year from the date of this decision notice at which time this use of the building shall cease and the building restored to its former use unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.
(Reason - In order that the Local Planning Authority can properly assess the operation of the takeaway on the amenity of adjoining residents and highway safety in accordance with Policies DP/3 and NE/15 of the Local Development Framework adopted 2007.)
2. The hot food takeaway use, hereby permitted, shall not be open to customers other than between the hours of 11:00 to 23:00 Monday to Saturday and 11:00 to 22:30 Sundays. (Reason - To protect the amenity of neighbours in accordance with Policies DP/3 and NE/15 of the Local Development Framework adopted 2007.)
3. Visibility splays shall be provided on both sides of the car park access and shall be maintained free from any obstruction over a height of 600mm within an area of 2m by 2m measured from and along respectively the highway boundary. (Reason – In the interest of highway safety in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
4. The hot food takeaway use, hereby permitted, shall not commence until the car parking spaces shown on the approved block plan are laid out on the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The car parking spaces shall be permanently retained as such. No car parking shall occur in the delivery access to the south of the building. (Reason – In the interest of highway safety in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
5. The proposed manoeuvring area to the public car park shall be provided before the hot food takeaway use commences on the site and thereafter maintained as such. No parking shall take place in this area. (Reason – To allow vehicles to leave the site in forward gear in the interest of highway safety in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
6. Details of the location and type of any power driven plant or equipment including equipment for heating, ventilation and for the control or extraction of any odour, dust or fumes from the building but excluding office equipment and vehicles and the location of the outlet from the building of such plant or equipment shall be submitted to and approved in writing by the Local Planning Authority before such plant or equipment is installed; the said plant or equipment shall be installed in accordance with the approved details and with any agreed noise restrictions. (Reason - To protect the occupiers of adjoining dwellings from the effect of odour, dust or fumes in accordance with Policy NE/16 of the adopted Local Development Framework 2007.)
7. No external lighting shall be provided or installed within the site other than in accordance with a scheme which has been submitted to and approved in writing

by the Local Planning Authority. (Reason - To minimise the effects of light pollution on the surrounding area in accordance with Policy NE/14 of the adopted Local Development Framework 2007.)

8. The hot food takeaway use, hereby permitted, shall not commence until litter bins have been provided on site, in accordance with details of siting, number and design which have been submitted to and approved in writing by the Local Planning Authority. (Reason - To protect the appearance of the site and to provide for the collection of refuse in accordance with Policy DP/3 of the Local Development Framework adopted 2007.)

Informatives

1. The granting of a planning permission does not constitute a permission or license to a developer to carry out any works within, or disturbance of, or interference with, the Public Highway, and that a separate permission must be sought from the Local Highway Authority for such works.
2. The Local Highways Authority will seek the provision of a contribution for a possible Traffic Regulation Order to prevent parking on the publicly maintainable highway under a Section 106 Agreement.
3. The applicant should be aware that changes to the signage of the building may require advertisement consent, and they should contact the Local Planning Authority regarding such works.
4. In regard to Condition 6 of this Decision Notice the applicant should have regard to Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (DEFRA) January 2005.

Background Papers: the following background papers were used in the preparation of this report:

- Local Development Framework Development Control Policies 2007
- Planning files S/0800/08/F, S/1926/07/F and S/0191/07/F

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