

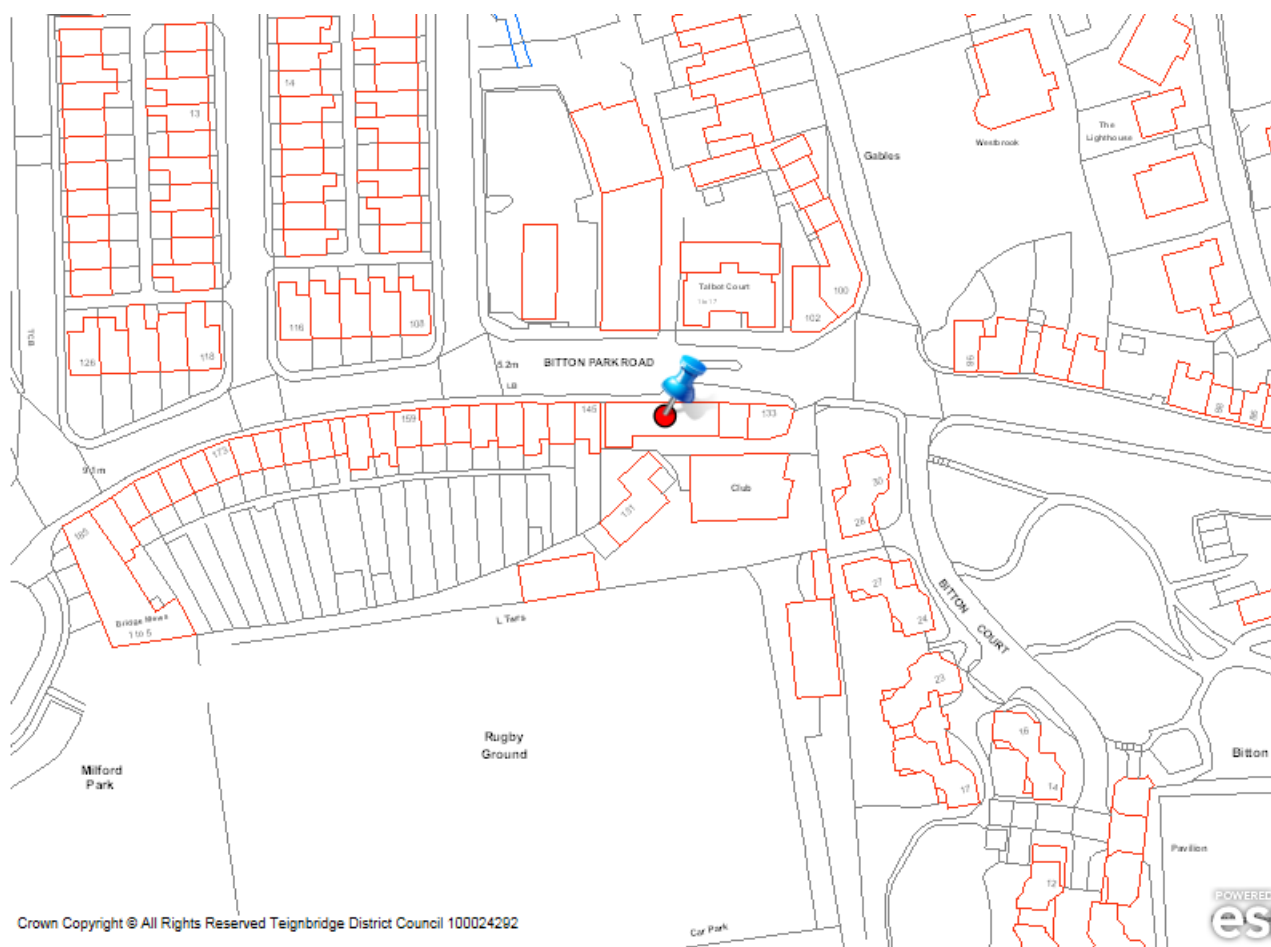
# PLANNING COMMITTEE REPORT

## 23 October 2018

CHAIRMAN: Cllr Dennis Smith



<b>APPLICATION FOR CONSIDERATION:</b>	<b>TEIGNMOUTH - 18/00908/FUL - 137-139 Bitton Park Road - Change of use from retail (Use Class A1) to hot food takeaway (Use Class A5) with ancillary seating, extraction, ventilation equipment and associated external alterations</b>	
<b>APPLICANT:</b>	<b>Mr A Roberts</b>	
<b>CASE OFFICER</b>	<b>Estelle Smith</b>	
<b>WARD MEMBERS:</b>	<b>Councillor Matthews Councillor Cox</b>	<b>Teignmouth West</b>
<b>VIEW PLANNING FILE:</b>	<a href="https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=18/00908/FUL&amp;MN">https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=18/00908/FUL&amp;MN</a>	





## **1. REASON FOR REPORT**

Councillor Cox requests Committee consideration if the Case Officer is recommending approval because he considers that there are air quality and traffic and parking problems.

This application was deferred from 29 August 2018 Committee at the request of the applicant.

## **2. RECOMMENDATION**

PERMISSION BE GRANTED subject to the following conditions:

1. Standard 3 year time limit for commencement
2. Development to be carried out in accordance with the approved plans
3. Notwithstanding Condition 2 the extract ventilation details should be only in accordance with revised details received on 2 July 2018
4. Hours of opening to be 11:00 – 23:00 only
5. Notwithstanding Condition 2 the approval hereby given does not extend to any signage on the east gable (elevation B)

INFORMATIVE: Advertisement consent should be sought separately for any signage not displayed by Deemed Consent i.e. Part 5, Schedule 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

## **3. DESCRIPTION**

- 3.1 The application site lies outside the primary or secondary shopping areas for Teignmouth.
- 3.2 The site is the ground floor (and basement area) of the old Dillons convenience store/One Stop shop, sited opposite the Tesco's store on Bitton Park Road. It is currently vacant and in a state of disrepair having been so since the Tesco store was constructed around 2008.
- 3.3 There is an access lane to the rear separating the building from the rugby club complex function room on which at the time of the site visit were parked two cars.
- 3.4 This proposal seeks to change the use to a hot food takeaway with external repairs and decoration together with internal alterations to form a moped garage in the basement, and store rooms, a cold room and wash-up area. The Manager's office, kitchen and customer service and seating area with customer w.c. would be on the ground floor with alterations to allow for a kitchen ventilation grille, new roller shutter door to moped garage, new access door from ground floor, and a bin storage area, all to the rear. The application also seeks to retain the external staircase giving access to the first floor accommodation.
- 3.5 Proposed advertisements are to be subject of a further Advertisement Consent application.
- 3.6 Proposed hours of operation are from 11:00 to 23:00 daily.

- 3.7 The application has been revised during its progression consisting of the removal of an originally-proposed ventilation flue on the east elevation which would have had an adverse effect on the streetscene and the nearby listed buildings.
- 3.8 Principle of the development/sustainability
- 3.9 Teignbridge Local Plan Policy S1A (Presumption in Favour of Sustainable Development) sets the criteria against which all proposals will be expected to perform well. It advises that the Local Planning Authority should take into account whether the adverse impacts of granting permission would outweigh the benefits of the development. In this case it is considered that the principle of the development is sustainable as it comprises the beneficial re-use of a vacant building in an accessible location.
- 3.10 Impact upon setting of listed buildings and the character and appearance of the Conservation Area
- 3.11 Although the site is not within a Conservation Area there are listed buildings within the vicinity, namely 90 Bitton Park Road (Grade II), Bitton House (Grade II\*) and The Orangery (Grade II). None of these buildings, it is considered, would have their settings adversely affected by the revised proposals, which omit the large ventilation flue.
- 3.12 In coming to this decision the council must be mindful of the duty as set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance.
- 3.13 The development now accords with Policy EN5 (Heritage Assets).
- 3.14 Impact upon the character and visual amenity of the area
- 3.15 It is considered that although the area is predominantly residential, a hot food takeaway will not be an alien feature in this location, there are three existing A5 uses in the immediate vicinity, a fish and chip shop, a kebab shop and a Chinese takeaway and there is a “local” supermarket opposite. It is considered that the character and appearance of the streetscene will not be adversely affected by the development. In fact the development seeks to improve the external decoration on the building and the visual appearance of the streetscene and will be seen as an improvement. The development therefore accords with Policies S1 (Sustainable Development Criteria) and S2 (Quality Development) in this respect.
- 3.16 Impact on residential amenity of surrounding properties
- 3.17 Currently, the flat on the first floor, above the site is unoccupied. The development seeks to retain and upgrade the external staircase to the rear giving access to that flat, so it appears that it will, in time, be occupied again. This will be the closest residential property to the development, although there is an attached house to the west, but this is sited further away from the proposed ventilation grille.
- 3.18 The Environmental Health Officer’s initial comments in respect of the original scheme, which has now been altered to omit the tall flue, were positive i.e. they had

no issue with noise, odour or air quality. In their more recent consultation reply they have suggested a condition to limit the opening hours to 09:00 – 21:00 as this would be the same as the takeaway at 135 Bitton Park Road that was approved under reference 15/01307/COU. However, it should be noted that the Environmental Health Officer's consultation reply on that application recommended opening hours of 11:00 – 23:00. The condition requiring earlier closure was imposed at the request of the Applicant. It is therefore considered that the development would not have any undue impact on the residential amenity of any future occupiers of that property or any neighbouring residential properties with regards to noise or odour. Furthermore, the last use of the property was as a retail outlet, with possibly no controllable hours of operation, so it would be difficult to argue that the proposed use would be more intensive than the average footfall associated with a retail use. The development therefore accords with Policy S1 in this respect.

3.19 Highway safety

3.20 No end user is presently mooted, however, the proposal includes the provision of a moped garage and it is envisaged that its business model will likely include a proportion of hot food deliveries as well as walk and drive in collections/orders.

3.21 The County Highways Authority has raised no objection to the proposal. They initially referred Teignbridge to their Standing Advice but later made their formal comments.

3.22 The site lies within walking distance of a large number of dwellings and a delivery option appears to be available. It is considered therefore that the development will not adversely impact on highway safety and is in accordance with Policy S9.

3.23 Other matters (including issues raised in representations and consultations that have not already been covered above)

3.24 Some of the objections relate to the desirability of the use of the site for a residential development. It would, it is considered, be difficult to find a suitable alternative use for this site. As it is within an Air Quality Management Zone, any sort of residential development would be difficult to achieve, with no opening windows facing the road for example. Policy S11 advises that the Local Planning Authority seeks to keep vulnerable uses, such as housing, out of areas where they would be harmed by existing pollution levels. Residential development would therefore be resisted.

3.25 The application submission argues that as the site has remained unused for the last 10 years Policy WE12 is met as the use is no longer necessary or viable in the long term, due to the close proximity of the Tesco's store opposite. The new use will re-use the empty unit, improve the visual amenity of the area, it is on a bus route, there is parking available nearby and it is close to a largely residential area which will mean people will also access the unit on foot.

3.26 A condition is recommended which omits any approval for any signage positioned on the gable end of the building. Advertisement consent is needed for a sign in this position. All advertisements not displayed with deemed consent should be subject to a separate and further advertisement application.

#### 4. **POLICY DOCUMENTS**

Teignbridge Local Plan

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S9 (Sustainable Transport)

S11 (Pollution)

S21A (Settlement Limits)

EN5 (Heritage Assets)

EN6 (Air Quality)

WE12 (Loss of Local Facilities)

National Planning Policy Framework

National Planning Practice Guidance

## **5. CONSULTEEES**

Devon County Council (Highways) - The site is accessed off the A379 a County Primary Road which is restricted to 30 m.p.h.. The site has a bus stop located outside and a pedestrian crossing. There are a number of parking places located along the A379 which at certain times of the day may be fully used by residents, although as the location of the shop is near to residential areas this may encourage customers to visit by foot. The Highways Authority has no objection to this application.

Environmental Health (Environmental Control) – The applicant has submitted a detailed risk assessment following the Defra guidance to identify mitigation for both noise and odour.

Should planning permission be granted the adherence to the submitted details should be conditioned and the installed system shall be maintained in accordance with the manufacturer's guidelines.

The application site is in close proximity to an existing premises with a similar use, 135 Bitton Park Road, Teignmouth, TQ14 9DQ (15/01307/COU). I recommend that the same hours of use condition for that premises is applied to the application should permission be granted.

*Condition 4*

*The use hereby permitted shall not take place other than between 9am and 9pm.*

*REASON: To ensure that no disturbance is caused to the occupiers of neighbouring properties as a result of unreasonable trading hours at the premises.*

This will prevent disturbance to the neighbours and a gradual creep of the prevailing background noise levels in the evening.

Environmental Health (Air Quality) - No objections.

Conservation Officer - As the applicant has now removed the large roof flue and replaced it with a balanced flue I do not consider that this affects the setting of any of the listed buildings and there is no need to consult Historic England.

Historic England - Do not wish to offer any comments, suggest you seek the views of your specialist conservation and archaeological advisers

## **6. REPRESENTATIONS**

One letter of support received raising the following points:

1. Will improve the streetscene with something productive and positive
2. Great idea for the community

11 objections received raising the following points:

1. Yet another takeaway
2. Insufficient parking
3. Increase in illegal parking on Westbrook Avenue, will become an even worse rat run
4. Unsafe for school children using the roads
5. Traffic lights (pedestrian controlled) will be used more causing additional congestion
6. Increase in pollution
7. Use will encourage more litter
8. Use will encourage rats
9. Affordable housing would be a more useful idea
10. Result in odour
11. Sufficient existing food outlets in the locality
12. Prominent position
13. Concern over policy for child obesity
14. Increase in noise disturbance especially if open late
15. Concern with poor and noisy ventilation
16. Concern right of way access will be further restricted to rear of Bitton Park Road

## **7. TOWN COUNCIL'S COMMENTS**

No objection but the Committee requests particular attention is paid to the ventilation and extraction proposals.

## **8. COMMUNITY INFRASTRUCTURE LEVY**

The proposed gross internal area is 277.07m<sup>2</sup>. The existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceding this grant of planning permission is nil. The CIL liability for this development is £41,560.50. This is based on 277.07 net m<sup>2</sup> at £150 per m<sup>2</sup> and includes an adjustment for inflation in line with the BCIS since the introduction of CIL.

## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.

**Business Manager – Strategic Place**