



Committee Report

Planning Committee North - 9 November 2021

Application no DC/21/3214/FUL

Location

54 High Street
Leiston
Suffolk
IP16 4EW

Expiry date 30 August 2021

Application type Full Application

Applicant MSS Properties EN Ltd

Parish Leiston Cum Sizewell

Proposal Change of use to restaurant & takeaway including installation of external flue

Case Officer Steve Milligan
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1. Summary

1.1 This is a full planning application for the change of use to restaurant and takeaway including installation of external flue at 54 High Street, Leiston. The property has recent use as a public house, followed by an Indian restaurant and lies within Leiston Town Centre. The proposed use is appropriate for a town centre location. Hours of use are appropriate within such a location. Main issue is in connection with the proposed extract system in terms of visual and operational impact.

1.2 The system will use carbon filters and will operate below background noise levels, such that impact should not have significant impact upon the amenity of neighbours. The extract flue does have some visual impact, but it has been boxed in and painted to match the building and on balance impact is not so significant so as to justify the refusal of planning permission. The scheme will ensure that the building is in a commercial use in the town centre, with the restaurant/takeaway use contributing to the vitality and viability of the town centre in accordance with the Local Plan and NPPF.

1.3 Reason Before Committee

The officer recommendation to approve is contrary to the recommendation of the Town Council and Ward Member. The application was subject to consideration by the Scheme of Delegation Referral Panel, with a recommendation that the application be determined under delegated powers. The Panel recommended that the application be referred to Planning Committee (North) for determination.

1.4 Recommendation

The application is recommended for approval.

2. **Site description**

- 2.1 The site is the property and curtilage of 54 High Street, Leiston which is a building last used as a restaurant with first floor accommodation. The building is a two-storey building that sits in a prominent location in the town on the corner of Cross Street and the High Street.
- 2.2 The site lies on the crossroads where the High Street meets Cross Street and Sizewell Road and lies on the north-western side of the crossroads with frontages to High Street and Cross Street. The current access lies on the western side of High Street, giving access to a 9-space car park. The property has a neighbour to the north 48b High Street, whilst Charles Miller Court, a sheltered housing scheme lies to the west.
- 2.3 The site lies within the settlement boundary/physical limits of Leiston and within Leiston Town Centre. Planning permission was given in 2019 for the change of use and extension of the building to flats under DC/19/2585/OUT.

3. **Proposal**

- 3.1 The application proposes the change of use of the property to a restaurant and takeaway and the installation of an external flue on the northern side of the property.
- 3.2 The installation of the flue has been carried out without planning permission and is retrospective. It has been boxed in with plywood casing which has been painted to match the existing building. The extract system is carbon filtered and the flue terminates at eaves level.
- 3.3 An acoustic report has been submitted during the course of the application. It confirms *"The fan has already been installed externally at 1st floor level but the duct installation is yet to be completed."*
Proposed hours are 10:00 to 22:00hrs every day.

4. **Consultations/comments**

- 4.1 No third-party representations have been received.

5. Consultees

5.1 Parish/Town Council

Consultee	Date consulted	Date reply received
Leiston-cum-Sizewell Town Council	14 July 2021	6 October 2021
<p>Summary of comments: Councillors felt this application was in retrospect and raised concerns that the work had already been carried out and the flue installed. Councillors felt the appearance and design of the flue was inappropriate but wanted to ensure if the application was approved that the stipulations from Environmental Health on the noise and extract ventilation be considered. Councillors were also concerned regarding litter around the site. Therefore Leiston Town Council recommend refusal on these grounds.</p>		

5.2 Statutory consultees

Consultee	Date consulted	Date reply received
SCC Highways Department	14 July 2021	29 July 2021
<p>Summary of comments: The Highways Authority does not wish to restrict the grant of permission. It is not thought that the change of use will increase the demand for parking over and above the current requirements. Vehicles using the takeaway are likely to experience significantly shorter visits than those visiting the restaurant. There are a couple of public car parks within walking distance of the site to accommodate any additional parking need.</p>		

6. Non statutory consultees

Consultee	Date consulted	Date reply received
East Suffolk Environmental Protection	14 July 2021	21 July 2021
<p>Summary of comments: A noise assessment should be submitted to include all proposed plant and machinery and be based on BS4142:2014. A rating level (LAeq) of at least 5dB below the typical background (LA90) should be achieved.</p> <p>All extract ventilation shall be vented via a filtered system, capable of preventing cooking odours, fumes, grease, dust, smoke and droplets from escaping the premises. Before the installation of such a system, details of -</p> <ul style="list-style-type: none">i) The proposed filtration plant;ii) Its ducted route through the building, and		

iii) Its final discharge point 1 metre above roof level;
 Shall be submitted to the Local Planning Authority. Only the approved scheme shall be installed at the premises, be fully functional prior to the first operation of the business, and be retained thereafter.

Consultee	Date consulted	Date reply received
East Suffolk Planning Enforcement Team	14 July 2021	No response
Summary of comments: No comments received.		

Consultee	Date consulted	Date reply received
East Suffolk Economic Development	14 July 2021	23 July 2021
Summary of comments: No comment.		

Consultee	Date consulted	Date reply received
Ward Councillor	N/A	2 August 2021
Summary of comments: I must object to this application on grounds that there has no Noise assessments within the application, The ducting has been partially encapsulated and therefore could increase noise levels, It is not installed to correct legislation with the outlet height of ducting. There are no assessment for the design of filtration in terms omitting fumes. I have not had access to the internal layout to ensure there are no H&S issues with the trading area.		

7. Site notices

General Site Notice

Reason for site notice: General Site Notice

Date posted: 14 July 2021

Expiry date: 4 August 2021

8. Planning policy

SCLP4.9 - Development in Town Centres (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP7.2 - Parking Proposals and Standards (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP10.3 - Environmental Quality (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.1 - Design Quality (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.2 - Residential Amenity (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

National Planning Policy Framework 2021 (NPPF)

9. Planning considerations

- 9.1 Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 all applications are required to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 9.2 The property lies within Leiston Town Centre and was formerly a public house (Black Horse Inn) and was last used as an Indian restaurant.
- 9.3 The change of use of the premises to include a takeaway use is considered acceptable in principle within the Town Centre and there is no objection from the highway authority in respect of access or parking. It is an objective of the Local Plan and NPPF to support the vitality and viability of town centres, and a benefit of this scheme is the continued commercial use of the building contributing to this area.
- 9.4 The proposal includes the retrospective installation of an extract system which has some visual impact and the potential for noise and emissions.
- 9.5 The extract is boxed in, and the boxing has been painted to match the existing building. It terminates at eaves level, so that it is viewed against the north wall of the property. Whilst the building lies in a prominent location on the western side of the High Street, the area lies well outside Leiston Conservation Area and visual impact will be limited to a location north of the building between 48b and the property. There is some visual impact, however given the extract system will enable the commercial use of this building within the Town Centre, the level of impact is not considered to be of a magnitude to justify the refusal of planning permission in this instance. The benefits of the commercial use of the building within the Town Centre would outweigh that impact.
- 9.6 Details were submitted during the course of the application in respect of the installation of carbon filters within the system and an acoustic report. The report confirms *"The BS4142:2014 assessment has found that the rating level of the proposal is 10.4 dB below the typical background noise and as such indicates that complaints are not likely. This also meets the requirements of the East Suffolk Council Environmental Health Officer stated in the memo of 21st July 2021."*
- 9.7 The Environmental Protection Team have considered the further information and state: *"I accept the report and the consider that the proposed height of the flue (less than 1m above ridge height), can be accepted at this stage. However, the applicant should be mindful that if*

the installation results in complaints regarding odour or noise, then a change to this approach may be required at a later date."

9.8 This was further clarified (15.09.2021):

"I accept that it will terminate at eaves level. However, if we receive complaints they may need to make adjustments."

9.9 It is not considered that there will be conflict with Policy SCLP10.3: Environmental Quality, nor the amenity objectives of Policy SCLP11.2.

10. Conclusion

10.1 The use is considered appropriate in principle within the Town Centre.

10.2 The main issue is in connection with the proposed extract system in terms of visual and operational impact. The system will use carbon filters and will operate below background noise levels, such that there should not be significant impact upon the amenity of neighbours.

10.3 The extract flue will have some visual impact but is boxed in and has been painted to match the building and on balance impact is not so significant so as to justify the refusal of planning permission. The benefits of a commercial use of the building, supporting the vitality and viability of the Town Centre, is deemed to outweigh any visual impact.

11. Recommendation

11.1 Approve with conditions listed in section 12 of this report.

12. Conditions:

1. The development hereby permitted shall be completed in all respects strictly in accordance with Drg No 20211127/03 received 05.07.2021; Drg No 20211127/01A and 04 received 16/08/2021 and acoustic report received 02.09.2021, for which permission is hereby granted or which are subsequently submitted to and approved by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.

Reason: For the avoidance of doubt as to what has been considered and approved.

2. The materials and finishes shall be as indicated within the submitted application and thereafter retained as such.

Reason: To ensure the satisfactory appearance of the development in the interests of visual amenity

3. The premises shall not be open to the public other than between the hours of 10.00am and 10.00pm and all members of the public shall have vacated the premises by 10.30pm.

Reason: In the interests of amenity and the protection of the local environment.

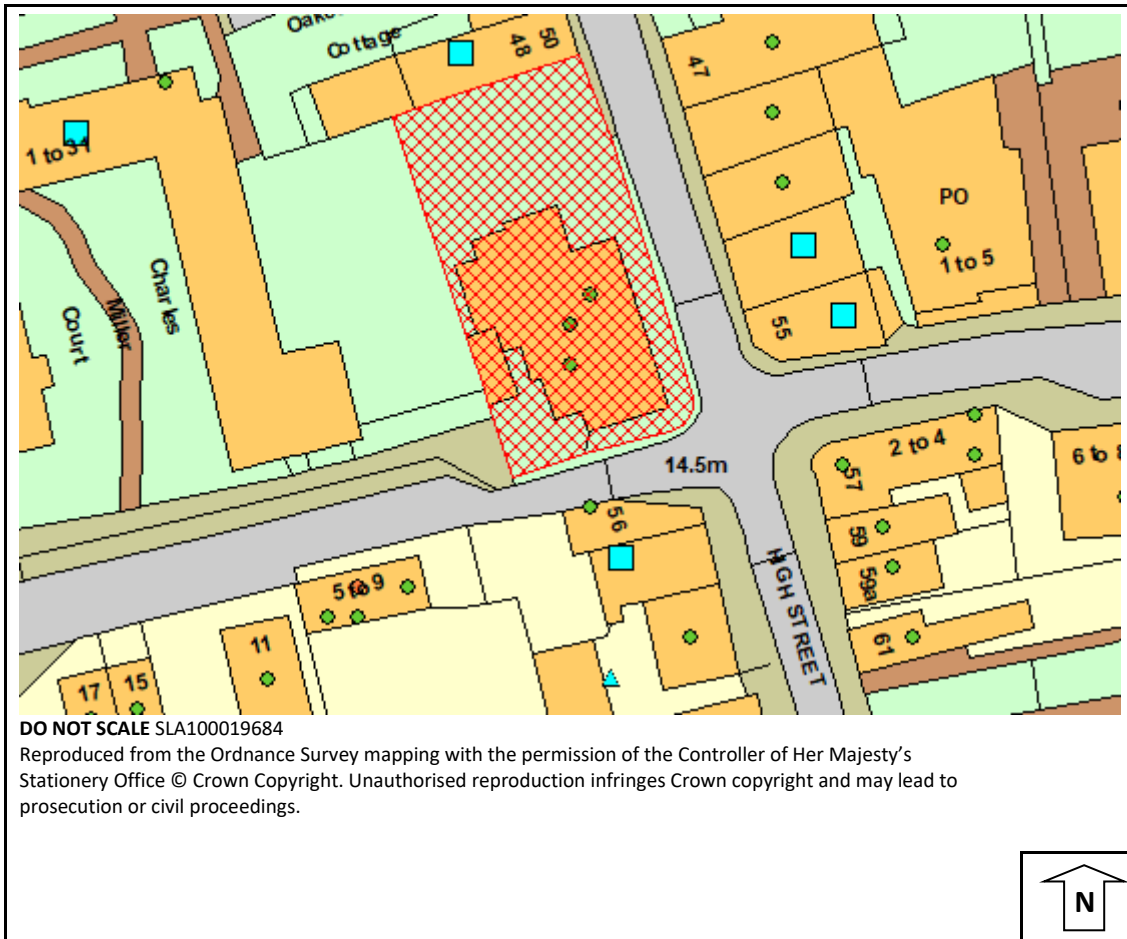
Informatives:

1. The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.

Background Papers

See application reference DC/21/3214/FUL on [Public Access](#)

Map



Key



Notified, no comments received



Objection



Representation



Support