

- 20 October 2009

REFERRED ITEM R6

TITLE : 09/00530/COU
CHANGE OF USE FROM CONSERVATIVE CLUB (USE CLASS SUI GENERIS) TO INDIAN RESTAURANT (USE CLASS A3)
THE OLD BAKEHOUSE BACK LANE ROCHFORD

APPLICANT : OLD BAKEHOUSE ENTERPRISES LTD

ZONING : RESIDENTIAL

PARISH: ROCHFORD PARISH COUNCIL

WARD: ROCHFORD

In accordance with the agreed procedure this item is reported to this meeting for consideration.

This application was included in Weekly List no 1004 requiring notification of referrals to the Head of Planning Services by 1.00pm on Tuesday 20 October 2009, with any applications being referred to this Meeting of the Committee. The item was referred by Cllr K J Gordon.

The item which was referred is appended as it appeared in the Weekly List together with a plan.

6.1 Rochford Parish Council: No objection.

NOTES

- 6.2** Planning permission is sought to change the use from a conservative club (Sui Generis) to an Indian restaurant (A3).
- 6.3** The host property is located on the southern side of Back Lane with a frontage facing north. The front elevation of the properties in Back Lane look on to the rear elevations of the properties in West Street (Mixture of residential and predominantly commercial). To the west of the application site is a vehicle repair business (considered a B2 use) to the east of the site is the rear elevation of no. 2 and 4 South Street which are sited at a 90° angle to the application site. Several residential properties are located to the south of the site and also north of the site in West Street. The Old Bake house is a two storey property extending to a significant depth with floorspace on ground and first floor. The ground floor customer/restaurant floor space totals 80.56m.sq. The first floor restaurant floor space totals 91.035m.sq. Total restaurant floor area of 171.595m.sq.

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- 6.4 Back Lane is an unclassified, one way street. As Back Lane is a one way street, cars enter from South Street and exit on the western end of West Street. Back Lane is significantly narrow and as such it is only possible for one car to pass through at any one time. On street parking would prevent other cars from passing by.
- 6.5 The site is located within an area designated as residential within the current Local Plan. The site is therefore located just outside of Rochford's Primary and Secondary shopping frontage areas and as such the change of use of the property is not subject to shopping policies of the Local Plan, which aim to maintain a high level of retail uses within those specific areas. It is considered therefore that the main considerations with the determination of this application are, the previous planning history, the impact upon the adjoining neighbouring properties and the appropriateness of the specific use in this location.
- 6.6 The site is located within the Rochford Conservation Area. As no external changes are proposed, no harm is considered to be caused to the character or appearance of the Conservation Area, such that the application would be considered unacceptable on this basis.
- 6.7 **Previous Planning History**
The relevant planning history for the site is as follows:
- ROC/871/78 – Change of use of existing bake house to a restaurant (application approved)
 - ROC/684/85 – Change of use from licensed restaurant to licensed private members club (Application approved)
 - 05/00049/COU – Change of use of first floor from club room and bar to 3 no. one bedroom flats (Application approved)
- 6.8 The property is currently in use as a private members club (Conservative Club), which as detailed above gained planning permission in 1985. This club provides the following facilities to both members and their guests throughout the week:
- A full cooked lunchtime menu (Monday to Friday)
 - Snacks, both at lunchtime and in the evenings (Daily)
 - Buffet catering for parties, wakes, weddings etc (available daily)
 - The Club also has a first floor function room

The planning history also establishes that the property gained planning permission in 1978 to operate as a restaurant. This business operated for 7 years before the property changed use to the existing Conservative Club. The previous history in that the property has previously been used as a restaurant is a significant consideration in the determination of this application.

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- 6.9 The existing use is also a significant factor, in that the Conservative Club offers significant catering providing hot meals and snacks on a daily basis, although the clientele are those who are members or guests of members of the Club. It is necessary to determine whether the proposed use would be so different in that the Indian Restaurant would give rise to unreasonable and detrimental impacts upon the amenities of surrounding neighbours such that in comparison to the Conservative Club use, the Indian Restaurant would be inappropriate for this particular location.
- 6.10 **Appropriateness of Use**
It is noted that there are already three other Indian Restaurants within Rochford Town Centre, however it is not the purpose of the planning system to regulate competition or choose or denote which particular shops/businesses are necessary or should occupy premises, but to determine whether the use is appropriate for the particular location.
- 6.11 The application site is located within Rochford town centre location whereby it is expected that residential properties and commercial/retail uses will operate within immediate proximity of each other. It is considered that the site is not the optimum location for a restaurant, located within immediate proximity of a residential properties, however the site has already previously functioned as a restaurant and the existing Conservative Club use is similar to that of a restaurant. The levels of activity associated with the proposed Indian restaurant are not considered likely to be materially or significantly different from that which already occurs or to a degree which would deem this use inappropriate within this particular location.
- 6.12 Other examples of restaurant uses close to residential properties can be seen within Rochford town centre. For example the Indian restaurant on East Street is located adjoining residential flatted accommodation; the Chinese restaurant on East street backs on to residential accommodation. The two Indian restaurants on West Street are located within immediate proximity of the residential properties to the western end of West Street. There are also examples of takeaways and retail uses with flatted accommodation above. Therefore the close relationship of residential properties and restaurants is fairly well rehearsed within the town centre. Although this does not necessarily deem this particular application acceptable it shows a significant precedent of residential and commercial uses coinciding together within a town centre location. In Back Lane and the return frontage of East Street this mix of commercial uses and residential properties in close proximity as neighbours is very apparent and has been consolidated with the residential developments rear of 6 to 10 East Street and the Old Forge site in Back Lane.

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- 6.13 The application, although no details have been provided, appears to also apply to provide a takeaway service from the site. A takeaway service is likely to be popular and could significantly increase the levels of activity on Back Lane. No details have been provided with regard to whether a delivery service will be provided, which may limit the numbers of people visiting the site. As the site is accessed via a narrow service road and no on site parking is available it is considered that the provision of a takeaway service in to the late evening could lead to on street parking in Back Lane and a considerable amount of visitors to and from the site which would give rise to unreasonable levels of disturbance and nuisance. Therefore although the site is considered appropriate for a restaurant use for dining in, the provision of a takeaway service could lead to unreasonable levels of disturbance in to the late evenings which would prove detrimental upon occupiers of surrounding residential properties. It is therefore suggested that any grant of consent has a condition restricting the provision of a takeaway service from the site.
- 6.14 **Impact Upon Adjoining Properties**
The site is located as detailed above within an area designated as residential within the Local Plan. Although within the immediate proximity of the site there is a significant mixture of commercial, retail and residential uses. A town centre location will inevitably give rise to some noise and disturbance which would be unlikely within a predominantly residential area. Although occupiers of residential properties within town centre locations should not be unreasonably harmed by way of noise, disturbance, traffic movements etc, some levels of activity, in the evenings and at weekends, as well as within the day, should be expected.
- 6.15 The existing use of the application site operates as a club premises with a significant catering offer which is similar to a restaurant, attracts people throughout the day and in to the evenings. The introduction of an Indian restaurant is likely to attract more customers in the evenings and at the weekends.
- 6.16 The location of a restaurant within this location is likely to give rise to more people walking along Back Lane, to access the restaurant and/or the car park. The Old Forge which is a residential property, has a few windows which immediately abut Back Lane. As such this property is within immediate proximity to passers by. The number of customers/people likely to visit the site cannot be accurately determined; however noise levels could change/increase as a result. Notwithstanding this against the back drop of the existing public houses and restaurants within the town centre and the current activities of the Conservative Club, the introduction of the proposed Indian restaurant is unlikely to materially increase the number of people present in the town centre or noise levels to such a degree that the immediate residential properties would be adversely affected.

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- 6.17 PPG4 referred to in the neighbour responses advocates a mix of uses including industry and commerce within residential areas, particularly in existing buildings subject to assessment of the normal material considerations.
- 6.18 The application site does not have any on site parking provision. This is not unusual within a Town Centre location indeed no appreciable on-site car parking is a concern factor shared by the other existing restaurants in the town. The site is located within immediate proximity to Back Lane public car park and as such it is considered reasonable to suggest that customers who need to drive to visit the restaurant could park within this car park in a similar way to anyone going to the Conservative Club by car would have done. Although it cannot be determined how many customers will visit the restaurant or how far they will travel, it is likely that a large majority of custom would be generated from local residents who would not necessarily need to travel by car to the restaurant. Furthermore being within the town centre the restaurant will be highly accessible by public transport.
- 6.19 It is possible that customers could be dropped off or picked up (by taxi or otherwise) on Back Lane, which may increase the levels of vehicle movements along Back Lane. Similarly, this is likely to occur with the current use and it is not considered that the levels of vehicle movements and associated noise would be such that the occupiers of the few surrounding properties would be unreasonably disturbed. As mentioned above however the levels of vehicles which may be associated with the collection of takeaways would most likely be more frequent and likely to visit later in to the evenings than customers who are dining in. As such levels of nuisance and disturbance as a result of a takeaway service could be unreasonable upon surrounding residential properties.
- 6.20 As the Conservative Club already functions as a restaurant there are already adequate ventilation and extraction facilities available within the kitchen. The applicant has highlighted that this system will be upgraded. As a result environmental health has requested a condition attached to any grant of consent requesting details of this new extract system. No issues have been raised by environmental health with regard to unreasonable levels of noise or smells likely to harm the surrounding residential properties as a result of this proposed use.

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- 6.21 The existing planning permission does not restrict the opening hours for the Conservative Club, as such there is no planning control over which hours or days the club is open to its members (as distinct from any licensing controls that may exist). Due to the location of the proposed restaurant close to residential properties (especially The Old Forge and the residential properties on the southern side of West Street with a rear elevation facing onto Back Lane and the first floor flatted accommodation in West Street) and that an increase in visitors to this part of Back Lane may result it is considered necessary to condition the days/hours of which the restaurant can open to the public. The applicant has suggested opening hours of between 12pm and 12am. As the existing use is unrestricted and the location of the site within a town centre, the opening hours suggested are considered acceptable.
- 6.22 **Essex County Highways:** De Minimis.
- 6.23 **Essex County Council Historic Buildings and Conservation Officer:** The Old Bakehouse is an unlisted building in the conservation area. The activity of the proposed use raises no conservation concerns. My concern is more about what changes may be required to the external appearance, i.e. new signage or any additional flues. The application only refers to minimal alteration internally. However, such changes are likely to be subject to further applications. So, for change of use alone, there is no objection.
- 6.24 **Environmental Health:** Discussions with Mr Uddin has indicated that he will be upgrading the system and I have asked him to supply details of this so we can ensure it is adequate. I have explained to him that I would require the following as a condition to any planning consent:
- "A mechanical extract system shall be provided to the kitchen area in accordance with details submitted to and agreed in writing with the Local Planning Authority. Such agreed works shall be fully implemented prior to the commencement of any use hereby permitted and shall be maintained in the approved form while the premises are in use for the permitted purpose."
- 6.25 36 neighbour letters have been received in response to the neighbour notification which make the following comments and objections:
- There should not be another Indian restaurant in Rochford, there are already three in the Town
 - The Council should take in to consideration the other Indian restaurant businesses especially within the current climate
 - Probable further air and noise pollution from extractors
 - Residents already deal with noise from the Kings Head every evening
 - Noise pollution from customers visiting the restaurant in evenings – talking, altercations and car and taxis

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- Increase in rodent pollution due to waste and food packaging being stored ready for collection
- Not an appropriate use within the conservation area
- The location is totally unsuitable, very close to residential properties
- Where would the customers park?
- Traffic problems would be exacerbated
- Council has recently sent out documentation regarding them coming more rigorous with regard to passing planning applications in the Conservation Area
- Indian restaurants are hardly fitting for a Conservation Area, the fascias tend to be of garish design and unattractive and will do nothing to enhance the appearance of the location.
- There are already rats in Back Lane, a restaurant would increase this problem
- Would like to see a youth club on the premises
- The building and access to this site is not suited to such a use
- The change of use would destroy the character of Back Lane
- There are other locations in Rochford that could accommodate this usage
- Noise from young people of the area having another place that is open late to hang around outside
- If it is the policy of Rochford Council to encourage people in to the centre by providing a selection of restaurants then another use would be more suitable
- Significant traffic problems already
- Back Lane cannot be considered to be a main thoroughfare
- An Indian restaurant will reduce property values
- Rochford needs more variety of businesses
- Significant noise from the extractor fans
- The application is desperately short of detail
- The Back Lane area is becoming increasingly residential in character and it is considered that any change of use of the Old Bakery should also be residential
- Proposal would result in the loss of a valuable community facility as the building contains the only private function suite remaining in the town centre
- Back Lane is unsafe for pedestrian traffic as there are no footways. Any proposal likely to increase pedestrian numbers is therefore undesirable
- There is no on site car parking and patrons will therefore have to walk to the car park or will be picked up/dropped off outside. Being a narrow thoroughfare the noise from vehicles and voices in Back Lane is amplified.

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- Paragraph 15 of PPG4 under the heading mixed uses infers that permissions should not be granted where there are specific and significant objections such as the relevant development plan policy, unacceptable noise, smell, safety and health impacts or excessive traffic generation. Considered that the change of use would conflict with national policy
 - Inevitable increase in anti social behaviour
- 6.26 Two petitions objecting to the application have also been received which are signed by a total of 26 people. The main comments/objections from the petition are as follows:
- Oppose a further Indian restaurant in Rochford
 - Traffic/parking problems inevitable
 - Other businesses in the Town are suffering
 - Increase in noise - especially late at night
- 6.27 Since the submission of the petition, the Council have been contacted by the lead name on the petition received on the 9th October, highlighting that he did not sign the petition as is indicated.

APPROVE

- 1 SC4B Time Limits Full - Standard
- 2 The use hereby permitted shall not open to customers outside the hours of 12:00 to 24:00 any day of the week.
- 3 Notwithstanding the use hereby permitted, a takeaway service shall not operate from the site at any time.
- 4 A mechanical extract system shall be provided to the kitchen area in accordance with details submitted to and agreed in writing with the Local Planning Authority. Such agreed works shall be fully implemented prior to the commencement of any use hereby permitted and shall be maintained in the approved form while the premises are in use for the permitted purpose.

REASON FOR DECISION

The proposal is considered not to cause significant demonstrable harm to any development plan interests, other material considerations, to the character and appearance of the area to the street scene or residential amenity such as to justify refusing the application; nor to surrounding occupiers in neighbouring streets.

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Relevant Development Plan Policies and Proposals

Supplementary Planning Document 5 (Vehicle Parking Standards)



Shaun Scrutton
Head of Planning and Transportation

For further information please contact Katie Simpson on (01702) 546366.

The local Ward Member(s) for the above application are Cllr Mrs G A Lucas-Gill
Cllr K J Gordon Cllr J P Cottis