

CAPITAL RANGE LTD

**CHANGE OF USE FROM A1 (RETAIL) TO A5 (HOT FOOD TAKEAWAY), ALTERATIONS TO THE SHOP FRONT, ERECTION OF TWO CONDENSER UNITS AND INSTALLATION OF EXTRACTION FLUE AT 40 STATION ROAD, TAUNTON AS AMENDED**

Grid Reference: 322591.125108

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposed change of use would bring the empty shop back into use, to the benefit of the vitality and viability of the town centre. Any impacts on neighbouring properties would be acceptable given the town centre location. It is, therefore, in accordance with Retained Policy T21 (Secondary Shopping Areas) of the Taunton Deane Local Plan and Policy DM1 (General Requirements) of the Taunton Deane Core Strategy.

**RECOMMENDED CONDITION(S) (if applicable)**

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A3) DrNo A139013/01 Rev E Existing & Proposed Floor Plans  
(A3) DrNo A139013/02 Rev A Existing & Proposed Elevations  
(A3) DrNo A139013/03 Signage Details  
(A3) DrNo A139013/04 Rev B Existing and Proposed Rear Elevation  
(A3) DrNo A139013/05 Existing Side Elevation  
(A3) DrNo A139013/06 Rev B Proposed Side Elevation  
(A3) DrNo 2030-01 Location Plan and Block Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

## **PROPOSAL**

The proposal comprises the change of use of the ground floor of the building from a retail use (A1) to an A5 use (hot food takeaway). The proposed end user is a pizza company.

The application has also included details of a new shopfront, an external flue at the rear of the building and two condenser units at ground floor level, also on the rear of the building.

## **SITE DESCRIPTION AND HISTORY**

The mid terraced building is located close to the town centre within the Secondary Shopping Area. The ground floor of the building is currently empty and prior to this the building had a retail use. The front of the building has a modern shopfront and the rear of the building faces onto a service road and supermarket car park.

Advertisement consent has recently been granted for an internally illuminated fascia and projecting sign for the new business.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* - No objection: -

The proposal is located inside Development Limits and within close proximity to the town centre, therefore the principle of this development is not in question.

The site is situated along Bridge Street a Class 1 highway to which a 30mph speed limit applies. Whilst carrying out a site visit I noted that Station Road is a well utilised town centre route.

With regards to the A5 use of the proposal I would like to make the applicant aware that the Highway Authority would not wish to see any vehicles parking directly outside of the development given the close proximity to the traffic light junction with Bridge Street, pedestrian crossing, bus stop and refuge along Station Road, which would lead to the disruption of the highway network.

The site seeks a change of use of A1 (Retail) to A5 (Hot Food/Takeaway), having carried out a site visit and studied the information supporting the application the Highway Authority have no objection to the principle of the development given that 40 Station Road is located within walking distance to the town centre and there is ample provision of public car parks in close proximity to the site.

Furthermore, the development will see the installation of a new shop front fascia.

The Highway Authority seeks that any signage shall have a minimum clearance of 2.4 metres above the level of the adjoining footway and shall not project closer than 450 millimetres to the carriageway edge. Having studied drawing No. A139013/02 and noted dimensions and levels of luminance, the proposed signage will not become a distraction to highway users and is therefore adequate. As a result, the Highway Authority raises no objection to the proposal.

#### *ENVIRONMENTAL HEALTH - NOISE & POLLUTION - Initial comments: -*

Even with a system installed using best practice, it is likely that noise and odours will be noticeable at the flat above the premises.

There are no details of the potential noise levels from the system, the location of the extraction fan or any noise attenuation that may be provided. It is also not clear what the use is of the rooms on the first floor flat that are closest to the flue; it is more likely to cause a problem if they are bedroom or living room windows.

On some applications a condition can be used to ensure that noise levels from the extraction system are not excessive enough to disturb nearby residents. This would require the noise from the flue not exceeding background levels by a certain amount when measured at the façade of any nearby residential premises. However, in this case the flue runs up the façade of the flat upstairs so it would not be possible to meet this condition as the noise from the flue will be audible at this location.

If permission is granted the flue should be installed using best practice to minimise any disturbance. The applicant should consider ensuring that the fan motor is inside the building and separated from the system with flexible ductwork; anti-vibration mounts and suitable silencers/baffles are used (including a silencer where the flue terminates outside). The flue must not be fitted with any cowl that restricts the upward flow of air.

I also note that the application form does not include details of the hours of opening. Any noise is more likely to cause a disturbance at night, therefore, I would recommend that the premises does not open after 23:00 unless the applicant can provide evidence to ensure that the noise will not disturb neighbours. (NB if the operators propose to provide late night refreshment after 23:00 hours they will need to apply for a Premises Licence from TDBC Licensing Team).

Note that if there are any problems the Environmental Health Section has a duty to investigate complaints and can require the operators to take further action if there is a nuisance from noise or odours.

#### Comments on amended plans/additional information: -

Further to my memo dated 29<sup>th</sup> April 2013 some additional information has been submitted by the applicant - letter from Greenslade Taylor Hunt to Taunton Deane Development Management, dated 13<sup>th</sup> May 2013.

This letter refers to the amended plans that have been submitted showing the extraction flue terminating at a higher level, above the roof eaves, which should help to disperse odours.

The letter from Greenslade Taylor Hunt states that noise will be contained by selection of low noise plant, mounting the plant, use of flexible elements between the ducts and the fans, the attenuated motor to be located inside the building and mounted on anti-vibration brackets and lagging of ducts and motors. Also, silencers and baffles will be fitted where appropriate (including a silencer where the flue terminates) and the flue will not be fitted with a cowl that restricts the upward flow of air.

The letter also says that it is not possible to provide an accurate measure of the projected noise levels within the first floor flat. However, they are confident that the noise will be controlled at an acceptable level.

It is good that the applicant will be considering noise when installing the extraction system. There is the possibility that the noise will be audible inside the first floor flat, but how this will affect the occupiers is hard to predict without knowing the layout of the rooms and the details of the noise levels from the fan.

My comments from the previous memo still apply regarding the problem with using a noise condition. Note that if there are any problems the Environmental Health Section has a duty to investigate complaints and can require the operators to take further action if there is a nuisance from noise or odours.

#### *ECONOMIC DEVELOPMENT MANAGER - supports*

I am fully in support of the application to change the use of 40 Station Road, Taunton to enable the opening of a Food Takeaway business. The proposal would enable the attraction of a national retailer to a part of the town with an established range of A5 uses, and will add to Taunton's attractiveness as an investment location. It will also bring a currently redundant retail premises back into use, and will directly create jobs in the town for local people.

It is important that Taunton is able to grasp the opportunities like this one when they come along. Food outlets and restaurants should be located in and around the town centre, where people live, work and visit. This application is an opportunity to welcome a nationally renowned operator to the town and reassert the town centre as the location for eating and leisure.

#### **Representations**

Two Ward Cllrs raise concerns over number of A5 uses in the area, fumes and pollutants that will be extracted and impact on local residents.

14 letters of OBJECTION on grounds of:

- too many take-aways in the area,
- they should move to an empty A5 unit,
- Station Road is over populated with licenced premises,
- it will affect existing businesses and many hot food outlets are closing,
- increase in traffic as largely a delivery service,

- increase noise and pollution,
- capacity of drainage system,
- parking problems with no space for customers or delivery vehicles leading to disruption of traffic on the highway,
- speeding delivery drivers,
- litter problems in the area,
- it is contrary to policy as it does not respect local context, would lead to an over-concentration of uses and would result in noise and disturbance to residents,
- it will create minimum wage low skilled jobs,
- waste storage may attract vermin,
- the type of business should not be opened near a school due to the food they sell and hazard of delivery bikes

A PETITION of 20 signatures against the A5 use on basis of too many food outlets in Station Road and competition

1 letter of SUPPORT on basis the use is in the right location and it is a multi national brand that will bring money and jobs to the town and will secure the re-occupation of an empty shop.

## **PLANNING POLICIES**

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
T21 - TDBCLP - Secondary Shopping Areas,  
NPPF - National Planning Policy Framework,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main considerations are impact on residential amenity and the Secondary Shopping Area.

### Secondary Shopping Area

The Secondary Shopping Area adjoins the Primary Shopping Area and offers a mix of buildings that complement the town centre. These uses, as well as retail, include cafes, takeaways, A2 uses (financial and professional) and leisure. Retained Policy T21 (Secondary Shopping Area) identifies that such uses appropriate to the area include A2 and A3 (now A3, A4 and A5) uses. The proposal would provide employment and aid the economy of the town to what is otherwise an empty unit.

### Residential amenity

The building is located within a town centre where a mix of uses, including residential, are encouraged. Waste storage bins are being provided on site. The agent has submitted additional details; raising the height of the flue above eaves level to disperse any odour; installing silencers and baffles (including a silencer where the flue terminates); flue will not be fitted with a cowl that restricts the upward flow of air; low noise plant equipment; anti-vibration brackets, and installing motor inside of the building.

Based on all of the additional information and amended plans, the Environmental Health Officer does not object, though acknowledges that there is still a possibility that noise could still be audible to residents above the proposed use.

Given all of the additional works proposed to minimise any impact on the amenity of residential properties, and that there are existing restaurants, public house and takeaways within the immediate vicinity, it is considered that a further unit will not cause any further detrimental harm to residential amenity; and given the number of other unrestricted similar uses within the area no opening hours condition will be imposed, this will be decided by Licensing.

### Highways

The building is sited close to the town centre with a public car park sited close to the building off Belvedere Road, and a supermarket car park to the rear of the building. As such, the building is accessible by foot and car users to the building have off road parking options within the immediate vicinity. The agent has confirmed the site will be serviced from the rear and in light of the submitted details the Highway Authority has raised no objection.

### Conclusion

The proposed uses are appropriate to the Secondary Shopping Area and accord with Local Plan Policy T21 and provide benefit to the economy and vitality and viability of the town centre. The nature of the jobs created or the food sold does not carry significant weight in the determination of this application. Objections on the basis of competition are not a planning matter. Given other take-away uses in the area it would be unreasonable to object on traffic and parking grounds. The use is not considered to cause any detrimental harm to residential amenity beyond any existing uses within the vicinity. Permission is therefore recommended for approval.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.**

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