

## **Committee Report**

**Item No: 2**

**Reference:** DC/18/01380

**Case Officer:** Katherine Hale

**Ward:** Rickingham & Walsham.

**Ward Member/s:** Cllr Jessica Fleming. Cllr Derek Osborne.

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## **RECOMMENDATION – APPROVAL WITH CONDITIONS**

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### **Description of Development**

Planning Application - Change of use of rear of building to A5 Hot Food Takeaway. Retention of existing front room for retail use, installation of extract equipment internally, flue through roof and internal alterations to provide sound and fire proofing to party wall.

### **Location**

The Newsagent, Bell Hill Cottage, The Street, Rickingham Inferior Diss Suffolk

**Parish:** Rickingham Inferior

**Expiry Date:** 20/08/2018

**Application Type:** FUL - Full Planning Application

**Development Type:** Change of Use

**Applicant:** Mr Y Karakus

**Agent:** Mrs Sarah Roberts

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## **PART ONE – REASON FOR REFERENCE TO COMMITTEE**

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The application is referred to committee for the following reason/s:

- Member referral

### **Details of Previous Committee / Resolutions and any member site visit**

It should be noted that whilst this specific application and its respective planning application (DC/18/01379) have not previously been at committee, the proposal has been subject to a previous application and listed building consent application (DC/17/04483 and DC/17/04484).

The previous applications (DC/17/04483 and DC/17/04484) were deferred at the Development Committee B on 3<sup>rd</sup> January 2018 due to additional information needing to be reviewed as well as agreeing that a site visit should be carried out. A Committee Members site visit was carried out on 24 January and the previous applications were then due to be heard at Committee B on 31<sup>st</sup> January 2018. The applications (DC/17/04483 and DC/17/04484) were subsequently withdrawn on 30<sup>th</sup> January 2018 prior to determination at committee.

Following the previous withdrawal this revised application and a new planning application (DC/18/01379) have been submitted to overcome the previous issue with regards to the ownership of the ceiling joists.

These items have been brought to this committee on the basis that the original applications and site visit was undertaken by committee B members and therefore there should be a degree of familiarity with the site and proposal

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## **PART TWO – POLICIES AND CONSULTATION SUMMARY**

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### **Summary of Policies**

NPPF - National Planning Policy Framework  
CS01 - Settlement Hierarchy  
CS05 - Mid Suffolk's Environment  
FC01 - Presumption In Favour Of Sustainable Development  
FC01\_1 - Mid Suffolk Approach To Delivering Sustainable Development  
FC03 - Supply of Employment Land  
CS12 - Retail Provision  
GP01 - Design and layout of development  
HB01 - Protection of historic buildings  
HB03 - Conversions and alterations to historic buildings  
HB08 - Safeguarding the character of conservation areas  
H17 - Keeping residential development away from pollution  
E12 - General principles for location, design and layout  
T10 - Highway Considerations in Development

### **Consultations and Representations**

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

#### **A: Summary of Consultations**

##### **Rickinghall Superior And Inferior Parish Clerk**

Objects-

- The application is misleading and attempts to downplay the impact on the village and the potential for trade.
- The village is referred to as a town and the site as within a retail centre. The village is a Key Service Centre but remains a village with a handful of retail premises but is predominately residential.
- There is insufficient on street parking for customers and workers. There is a general lack of parking in the village.
- In 2016 a traffic survey was undertaken which identified problems of parking at the Newsagents/Post Office, specifically the frequency of customers parking on the pavement outside the shop.
- Several incidents reported to the Parish Council resulted in a proposal to erect bollards.
- Customers regularly blocked driveways and the Parish sought a Keep Clear marking on Warrens Lane.
- No information regarding deliveries.
- No evidence to support the assertion that 50% of customers will arrive by foot. Due to the linear nature of the villages residents at either end are likely to drive as to ensure food remains hot.

- Harm to residential amenity from noise, odour, and privacy.
- Increased risk of fire.
- Result in the loss of the Post Office which is contrary to the Supplementary Planning Guidance on Retention of Shops, Post Offices, and Public Houses in Villages.
- Consideration should be given to the proliferation of hot food takeaways and obesity.
- Will compete directly with three existing business which provide takeaway pizza. Any loss of trade will directly affect existing local employment.
- Neglects any benefits and provides no evidence of enhancements. The adverse impacts are clear.
- Recommend a site visit to get a true picture of its effect on the community.

### **Botesdale Parish Clerk**

Objects-

- The proposal will have a detrimental effect on local character with the large ventilation system altering the line of rooftops viewed from Crown Hill to Maypole Meadow.
- Harm to neighbour amenity due to the hours of operation, noise, and smell.
- Increase in litter and late night gathering by customers will erode the residential character of the surrounding area.
- No provision for parking and manoeuvring of vehicles.
- No provision for deliveries.
- Reliant on resident's parking and unsafe and anti-social parking in front of the premises.
- Does not accord with the Supplementary Planning Guidance on the Retention of Shops, Post Offices, and Public Houses in villages.
- Public Health England's guidance on Health Matters identifies the relationship between the proliferation of hot food takeaways and obesity and recommends Planning Policy should control the over-concentration of hot food takeaways.
- The loss of a permanent post office, loss of amenity to residential properties, exposure to further unhealthy food environments, effect on existing businesses and additional strain on on-street parking far outweigh the benefits of which there is no evidence.

Response also set out inaccuracies in the Planning Statement;

- The main function of the premises was as a full time Post Office
- Barely enough on-street parking for residents
- This is a village not a town centre
- At pre-application advice a closing time of 9pm was recommended and has not been proposed.
- The ventilation and odour control system are not adequately described
- No evidence to support that 50% of orders will be collected on foot
- This would be in direct competition with three existing businesses nearby which already provide the same service (pizza). Any loss of trade by those business will directly affect existing local employment.

### **Environmental Health - Land Contamination**

No objection raised with respect to land contamination

### **Environmental Health - Noise/Odour/Light/Smoke**

No objection providing that:

- 1) The additional sound proofing as detail in the application be installed.
- 2) The extraction system should be fitted and maintained as recommended by the manufacturers

3) Given that the extraction system is now to be installed in a habitable room the first floor living quarters should not be sublet to persons not associated with the proposal

4) The hours of operation to be as detailed in the application 11.00 to 22.00hrs this should include any deliveries/collections.

### **SCC - Fire & Rescue**

#### Access and Fire Fighting Facilities

Access to buildings for fire appliances and firefighters must meet with the requirements specified in Building Regulations Approved Document B, (Fire Safety), 2006 Edition, incorporating 2010 and 2013 amendments Volume 1 - Part B5, Section 11 dwelling houses, and, similarly, Volume 2, Part B5, Sections 16 and 17 in the case of buildings other than dwelling houses. These requirements may be satisfied with other equivalent standards relating to access for fire fighting, in which case those standards should be quoted in correspondence.

Suffolk Fire and Rescue Service also requires a minimum carrying capacity for hard standing for pumping/high reach appliances of 15/26 tonnes, not 12.5 tonnes as detailed in the Building Regulations 2000 Approved Document B, 2006 Edition, incorporating 2010 and 2013 amendments.

#### Water Supplies

No additional water supply for fire fighting purposes is required in respect of this planning application.

Suffolk Fire and Rescue Service recommends that proper consideration be given to the potential life safety, economic, environmental and social benefits derived from the provision of an automatic fire sprinkler system. (Please see sprinkler information enclosed with this letter).

Consultation should be made with the Water Authorities to determine flow rates in all cases.

Should you need any further advice or information on access and fire fighting facilities, you are advised to contact your local Building Control in the first instance. For further advice and information regarding water supplies, please contact the Water Officer.

### **SCC - Highways**

The current proposal would not have any severe impact on the highway network in terms of vehicle volume or highway safety. Therefore, Suffolk County Council does not wish to restrict the grant of permission.

### **Heritage Team**

No objection, the proposal would cause no harm to a designated heritage asset because the impact on the historic fabric is limited due to the existing finishes and proposed fixing methods. Conditions should be attached as per the previous applications

### **Historic England**

Do not wish to comment

### **Economic Development & Tourism**

No objection - the premises are easily accessible and located in the main street of the village, close to other pubs and shops. The conversion will bring the rear of the building into commercial use and help to support four new jobs

## **B: Representations**

### **Summary of responses received:**

#### **Objections:**

- Village has sufficient food outlets including the two pubs however there is a need for a post office and a small general store.
- Parking will be a major issue particularly at weekends. Limited parking available.
- Moved to village to get away from the litter, smell, and atmosphere of a large town and move to the relative peace and clean air of the countryside in a village location.
- Who will monitor the hours are adhered to?
- What will be the catchment area for the intended customers? Rickinghall and Botesdale have a mixed population with a large amount of elderly retired people.
- Rickinghall and Botesdale are not a market town and the village is not like the other takeaway outlets the proposer owns.
- There is no commercial centre or town centre
- Harm to amenity due to noise and disturbance
- The Local and Fish and Chip Shop provides most of the food items listed.
- Concern regarding the sustainability of the existing four businesses in an ever more difficult market.
- The Fish Shop already provides a pizza delivery service and most business is achieved in the evenings.
- Cars would park on the pavement more than they did for the Post Office affecting road safety and pedestrian safety. There is added danger due to the location of the site on the brow of a hill.
- Harm to public health and obesity
- The site sits within a conservation area and attractive street scene. A takeaway business would harm the character of the street, conservation area and Listed Building.
- Nothing to stop the first-floor property to use the room directly above the entrance as and the use would restrict their enjoyment of their property.
- Will make properties nearby unsalable
- Will cause traffic nuisance and disturbance to neighbours.
- Will block neighbours drives
- Notwithstanding the provision of a white line to discourage blocking drive access, inconsiderate parking has interfered with service vehicles accessing nearby properties and resident's ability to access their properties and visibility of the road. The provision of double yellow lines could address this concern.
- Will spoil the village
- The Neighbourhood Plan survey results could provide information about what the village feels it needs.
- Hours of operation of 11am- 10pm seven days a week is excessive
- This sort of business attracts a lot of litter and odour issues from cooking
- The application is inaccurate
- The Old Chapel (offices of 1500sq ft.) is currently being advertised and when occupied will again put pressure on parking as there is no associated parking.
- Exacerbate existing anti-social behaviour and increase the likelihood of more frequent incidents of petty vandalism in The Street at night.
- Unlikely customers will walk
- Car park for Bell Inn is for pub customers only.
- Detrimentally impact the adjacent pub due to odour and block their driveway
- Storage of bins would be an eye sore and lack of litter bins.
- Potential issue with pest control, drainage, water supply and electricity supply
- Concern regarding SCC Highways response

- Fail to see what difference this application will make.
- Rickinghall does not need another fast food outlet.
- The disruption it would cause; in terms of noise, pollution, parking and litter both to the neighbouring residential properties and the villages of Rickinghall and Botesdale will be too great to warrant this application.
- This is a listed building within a residential area and should be left alone.
- Concern regarding parking on pavement and highway safety
- Concern regarding potential billboards
- Concern regarding odour, litter and noise on residential amenity
- Stating the front shop area will be maintained for retail use is false
- Loss of residential space
- Deed of Covenant in place which puts restrictions on both parties

**Support:**

- Business hours are not unreasonable and will not attract late night reellers
- Parking won't be an issue as there was previously a business here
- Become an eyesore if left empty
- Variety of takeaway and open during the day
- Litter bins located around the village for rubbish disposal
- Job opportunities

## **PART THREE – ASSESSMENT OF APPLICATION**

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### **1. The Site and Surroundings**

1.1. The site comprises a former Newsagents and Post Office with residential accommodation, known as Bell Hill Cottage. The residential accommodation benefits from an enclosed rear garden. The existing shop and residential property do not benefit from any off-road parking. The site is situated along The Street which is a main route through Rickinghall and Botesdale. Bell Hill Cottage is attached to Bell Hill House, and together they form a Grade 2 Listed Building. The building retains its traditional shop front window with central door as detailed in the buildings listing description. The building has a modern rear extension erected in the 1980s which created an annexe.

1.2. The site is located adjacent to the Bell Inn Public House and is separated by the vehicular access off the Street leading to the Pub car park which wraps around the rear of the building. This car park slopes away from the road. Opposite the site there is space for parking which is predominately utilised by residential properties.

1.3. Other than the pub, the site is surrounded by dwellings and is situated within the Rickinghall and Botesdale Conservation Area.

1.4. Rickinghall and Botesdale are designated as a Key Service Centre and benefits from a Co-op, pubs, fish and chip shop and Chinese takeaway.

## **2. The Proposal**

2.1. The application seeks listed building consent for the change of use of the former Newsagents and Post Office and first floor residential bedroom and store to A5- Hot Food Takeaway. The front part of the shop is to remain as retail use with no alterations. A glass partition will be inserted to the back of the front retail section to separate the retail use from the A5- Hot Food Takeaway use. The first floor of the unit is proposed to be accommodation for a person related to the A5 use. The residential use will be confined to the first floor only and would provide two bedrooms together with a living room with kitchenette. The rear garden space shall be retained for residential use.

2.2. The works include the insertion of a glass partition under the main downstand cross-beam. It is noted that this screen effectively replaces the additional separation (which was previously looked upon favourably) without needing to fix into the ceiling. As well as works to the modern ceiling at the rear of the unit to provide both fire separation and acoustic separation, together with new sound and fire lining against the party wall and the installation of extraction ducting internally and external flue. There are no other external works other than the flue. Signage to the building will be subject to a separate advertisement consent and listed building consent to be assessed on their own merits, however it is considered that an acceptable presentation could be agreed in that respect.

2.3. The proposal seeks to provide two full time positions and two part-time (the equivalent of three full time members of staff). The hours of operations as detailed in the application form are 11:00 to 22:00; seven days a week including bank holidays.

## **3. The Principle Of Development**

3.1. Members will be aware that support for sustainable economic growth is a principle which underpins the National Planning Policy Framework (NPPF) and which local planning authorities are urged to put at the heart of their decision making.

3.2. The adopted policy Framework (the Core Strategy, Focused Review, and Local Plan) seeks to protect and enhance the vitality of Mid Suffolk's town centres by supporting proposals which contribute. In this regard, Policy CS12 of the Core Strategy expresses support for uses within Classes A1-A5 in the town centres.

3.3. This site however is not located within a town centre nor is it within a designated principal shopping area. The site is also not located within the countryside and is not considered a rural building. As such the proposed development does not fall within the provisions of the policies in the Core Strategy or Mid Suffolk Local Plan relating to commercial activity.

3.4. Policy S7, E9, E10, and E11 of the Mid Suffolk Local Plan relate to proposals for new businesses or commercial units. Whilst they do not relate to new commercial activity in villages, they offer a useful framework regarding issues to consider for new commercial units, namely that;

- The building is appropriate in design, scale, and form
- No significant adverse effect on residential amenity
- Amount of traffic to be generated is acceptable
- Impact on highways and meeting parking standards

3.5. Bell Hill Cottage has functioned as a shop for many years and includes residential accommodation along with a rear garden area in the 1980s. The building retains its traditional shop front with a central door.

3.6. It is understood that the Post Office formerly operated out of the Botesdale Post Office but was moved in 2014 to Bell Hill Cottage with the franchise being incorporated in the existing newsagents. The newsagents and post office closed in August 2016 and was advertised for sale. It is not known when the property was taken off the market.

3.7. The proposal seeks to change the use of the back office and ground floor residential area to A5- hot food takeaway whilst retaining the existing shop as retail use. The shop will remain empty for retail use with the back office becoming the serving area and the rear lounge area would become the kitchen and preparation area. Upstairs the storage area will become residential and be used for a bedroom.

3.8. Bell Hill Cottage provided a Newsagents and Post Office. The change of use from A1 to A5 would result in the loss of this service and the nearest Post Office is now in Wortham. Rickinghall and Botesdale do benefit from a Co-op store which sells an array of products and is open from 7am to 10pm Monday-Saturday and 9am to 5pm on Sundays. The villages of Rickinghall and Botesdale are therefore already served by a similar business unit to the previous use, though it is appreciated that the Co-op does not provide a Post Office Service. There is considerable local support for the retention of this store as a Post Office.

3.9. It is worth noting that the Newsagents/Post Office could change use to another retail unit, including hairdressers, under permitted development without requiring planning permission. Furthermore, should permission be granted for this application, the A5 unit could revert back to an A1 retail use under permitted development rights. Furthermore this application seeks to retain an element of the retail use at the front of the unit. The change of use proposed does also retain commercial and economic activity of this unit.

3.10. The change of use therefore retains a commercial activity and Rickinghall and Botesdale would still be served by a similar store (the Co-op). The retail use could also be resurrected in the future without requiring planning permission. No marketing details have been submitted with the application, but it is understood that the premises have remained vacant for over a year and the post office franchise was marketed on the post office website until November last year.

3.11. It is recognised that existing businesses already provide similar hot food takeaway as part of their menu (The Bell Pub and Fish and Chip Shop for example sell Pizza). However, there is no local policy which restricts the amount or types of businesses in one village. As such, the application cannot be refused due to the existing provision of pizza takeaway in Rickinghall and Botesdale. The proposed development is for an A5 use which covers an array of different businesses which sell hot food to be consumed off the premises.

3.12. Concern has also been raised regarding the proliferation of takeaways and the effect on diets, eating behaviour, and obesity with reference to The Public Health England: Health Matters- obesity and the food environment 2017. The Public Health England publication identifies the scale of obesity in England and sets out measures to tackle this problem. Public Health England identifies that supplementary planning documents and policies can be used to control the over-concentration and proliferation of hot food takeaways. It details that once appropriate planning policies are in place, supported by local evidence, local councils can refuse planning permission for a new food outlet if they can demonstrate that it will have an adverse impact on the health and wellbeing of the local population and will undermine the local authority's strategy to tackle obesity. It also explains that for planning decisions to be successfully upheld they need to be able to demonstrate a link to sound evidence and clear local policy. These types of policies are largely adopted by urban Local Authorities such as the London Boroughs or in Town Centre locations where fast-food outlets are more prevalent



3.13. The Planning Authority does not have a policy which restricts the provision, location and number of hot food takeaways in a village or town. The Stowmarket Area Action Plan (2013) does state that hot food takeaways will be resisted if they fall within 400m of the boundary of an existing school and leisure or recreational facility. Rickinghall is not within the area covered by the SAAP and therefore this policy does not apply to this application. Nevertheless, the site is not located within 400m of a school or recreational facility.

3.14. Whilst, it is appreciated that obesity is a countrywide issue, it is not considered that the provision of this additional facility in this locality would give rise to a significant increase in health care problems or obesity in the locality as to warrant refusal.

3.15. Subsequently, the principle of the change of use from A1 to A5 in this village location is considered acceptable subject to the impact on the heritage assets, neighbour amenity, odour issues, and highways implications.

#### **4. Site Access, Parking And Highway Safety Considerations**

4.1. Residents, the Rickinghall and Botesdale Parish Councils, and Ward Members raise concern regarding the highways implications of the development proposed. When the shop operated, customers often would park on the pavement causing traffic flow issues, blocking driveways, restricting pedestrian activity, and causing highways safety issues.

4.2. The site does not benefit from its own parking spaces and it is understood that it never did when it operated as a shop. As such, the applicant would be reliant on customers utilising the existing on-street parking just as the shop use did. It is appreciated that the on-street parking is also used by surrounding residents.

4.3. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. This is interpreted as referring to matters of highway capacity and congestion, as opposed to matters of highway safety.

4.4 SCC considers the development unlikely to give rise to additional traffic volumes which would cause a severe impact on traffic volume. The development would not therefore significantly change the character of the surrounding highway and therefore would not have a severe impact on local road users.

4.5. SCC Highways are of the view that overall vehicle movement numbers are likely to be broadly similar to the previous use. It is acknowledged that the pattern of use of this premise may extend later with the proposed use, when compared to its current use.

4.6. The Post Office operated between 6.30am to 5.30pm Mon-Friday, 6.30am to 5pm Saturdays and 7am to 12pm Sundays. Nevertheless, Officer's agree that proposed use is likely to give rise to similar amounts of traffic as it did when the shop operated.

#### **5. Design And Layout [Impact On Street Scene]**

5.1. The proposal seeks listed building consent for the change of use of the rear of the building to A5- Hot Food Takeaway. The previous applications DC/17/04483 and DC/17/04484) were withdrawn due to an issue over the ceiling ownership of part of the unit.

5.2. The previously contentious elements have been removed and the scheme changed entirely. The proposed A5 use would take place further back into the building at the rear in the former residential section, no sound proofing is proposed on the ceiling at the front of the unit. A new glazed wall will be inserted to

separate the existing retail use which is to be maintained from the back of the unit which is to be converted to the A5 use. The grill and ordering counter for the proposed takeaway would be located behind this new glass separation screen (behind the retail room). A new aperture would be created in the masonry wall to act as a serving counter, the masonry fabric is not original and would not result in the loss of any historic fabric. A new stud partition wall will be inserted along the Party wall to improve sound separation.

5.3. At first floor level the entire floor will be converted to residential use providing a two bedroom unit with a lounge and kitchenette.

## **6. Heritage Issues [Including The Impact On The Character And Appearance Of The Conservation Area And On The Setting Of Neighbouring Listed Buildings]**

6.1. Both the NPPF and Core Strategy place significant emphasis on safeguarding heritage as an important component of sustainable development.

6.2. With reference to the treatment of the submitted application, the Council embraces its statutory duties and responsibilities in relation to listed buildings, notably the general duties under sections 16, 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the local planning authority to have "special regard to the desirability of preserving [a] building or its setting or any features of special architectural or historic interest which it possesses".

6.3. Recent case law on the application of the statutory duty acknowledges that the consideration of the impact of a proposed development on the significance of a designated heritage asset is a matter for its own planning judgement, but that the Local Planning Authority is required to give any such harm considerable importance and weight. However, where special regard to the desirability of preserving heritage assets has been paid and no harm is posed, the 'balancing' of harm (which should be given considerable weight as above) against public benefits as required by the NPPF, is not engaged.

6.4. Policy HB1 (Protection of Historic Buildings) places a high priority on the protection of the character and appearance of historic buildings, including their setting. Policy HB3 also details that conversion of listed buildings will only be permitted in exceptional circumstances and will be required to meet high standards of design, detailing, material and construction. Listed Building Consent will be granted if the Planning Authority is satisfied that the proposal would not detract from the architectural or historic character of the existing building or its setting and for timber frame buildings, the structure of the frame including its infill material remains largely unaltered.

6.5. In paragraph 184 of the NPPF it makes it clear that development should conserve heritage assets "These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations". Para 185 goes on to state that "In determining planning applications, local planning authorities should take account of; the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness." Furthermore Para 193 and 194 state "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification".

6.6. The proposed development is to change the use of parts of the building to A5- Hot Food Takeaway. To implement this change of use internal works are proposed in the interest of neighbour amenity and fire safety. The works include the addition of an internal stud partition along the Party wall for sound and fire separation between the shop and the neighbouring property of Bell Hill House; the insertion of a timber stud and glass wall/doors for sound and fire separation; a new aperture in the masonry wall to serve as a counter and the installation of extraction ducting internally and an external flue. There are no other external works other than the flue. Signage to the building will be subject to separate advertisement consent and listed building consent.

6.7. The Heritage Team notes that the concerns previously raised with the initial applications (DC/17/04483 and DC/17/04484) were subsequently overcome after the submission of further information. This current application amends the previous proposal in two ways. The service counter is now replaced by a screen of timber studs with glass sliding doors, and the arrangement of the staff accommodation and shop services areas have been amended so that the accommodation is now solely at first floor level with the service areas at ground floor. The Heritage Team are of the opinion that the proposed glass screen would (as the submitted Planning Statement suggest) indicate the historic layout of this part of the building. The arrangement of the staff accommodation would not give way to any particular Heritage issues.

6.8. The Heritage team does not oppose the introduction of the flue in the roof slope of the east elevation. The proposed flue would be installed in the 1980s addition to the listed building. The flue does not project far above the ridge and is of a modest scale. The building features a large central chimney, whilst the western elevation of the building features an external stack. Whilst the flue would read as a modern introduction, it is not considered that the flue would harm the character of Bell Hill Cottage, or the significance of the Conservation Area. Heritage recommend the flue is painted black to reduce its visual impact.

6.9. The proposed sound proofing and fire resistance does not require building regulations approval as, for the purposes of building regulations, a shop and hot food takeaway are classified as the same use. The application does not demonstrate that the scheme would have an acceptable impact in terms of noise on the adjoining neighbour without such sound proofing measures. The Planning Statement states that the sound proofing is to provide a better standard than currently experienced.

6.10. Given the extent of fixtures which obscured the original walls when the premises were occupied as a shop, the proposed internal works will allow for protection of the historic fabric, there will be no loss of historic fabric and the works will ensure the adjacent residential amenity is protected; the internal works are not considered to harm the character of the historic building and its significance. The sloping ceiling and retained exposure of the beam will ensure the character of the shop is not significantly impacted. The works therefore would allow for the commercial use (all be it as an A5 use) to continue and would not impact the historic character or understanding of this building. The main features of the two bays with two first floor casements and front shop window will remain unaffected.

## **7. Impact On Residential Amenity**

7.1. There are residential properties surrounding the proposed A5 unit, including the residential use adjoining and above the existing shop. It is intended that the first-floor accommodation be occupied by a member of staff though it is not deemed necessary to control the occupation of this unit by condition. The introduction of this proposed use will introduce more activity, including vehicles stopping and departing the area.

7.2. However, these residential properties are already located on the main road through Rickingham and Botesdale in area where there is a level of commercial activity from the local pubs, restaurants, and the Co-op store. Indeed, the existing newsagent itself would have given rise to activity though it is appreciated that the proposed use would operate longer hours than the former use and that this use ceased a while ago.

7.3. Objection has been raised regarding the proposed operating hours. At pre-application stage it was suggested by the planning authority that the use end at 9pm. The proposal seeks to operate from 11am until 10pm. The proposed A5 unit is located adjacent to an existing public house which stays open into the evenings and is open till 12pm on Saturdays. This public house has its own car park which runs between the public house and the application site where access is obtained from the highway. This area also includes an outside seating area.

7.4 Additionally, the nearby Fish and Chip shop (over 0.1miles away) is also open until 09:30 on Tuesdays and Wednesdays, 9pm on Sundays and until 10pm on Thursdays, Saturdays and Sundays. The Chinese restaurant (over 0.1miles away) is also open until 10.30pm throughout the week except for Tuesday's when it is closed. The Greyhound pub (approximately 132m away) is also open until 11pm weekdays and 1pm Fridays and Saturdays and 12pm on Sundays. There is therefore already a level of evening activity along The Street near the application site.

7.5. The use of the premises from 11am to 10pm is therefore considered acceptable and reflects the opening times of the surrounding restaurant and takeaway uses. Objections received did not detail nuisance from the existing businesses.

7.6. Environmental Health raises no objection to the proposal subject to conditions detailed above.

7.7. There are no windows in this roof slope of Bell Hill House and the top of the flue proposed is above the ridge height of the roof slope it projects from. The bottom of the flue cap is approximately 17cm above the ridge of the roof slope it projects from and is over 40cm above this ridge and terminates well over 1m from the eaves height.

7.8. Although, it is considered that the proposed development accords with building regulations in the event that an increased height in flue be deemed necessary by building regulations than a revised application will be required for planning permission and listed building consent.

7.9. It is also noted that there is a covenant on Bell Hill Cottage, restricting the use of this building as not to cause harm or nuisance through noise and activity. As such, this civil matter somewhat restricts the proposed use. The use, provided it includes the acoustic and odour measures, is considered acceptable in planning terms. However, the determination of this application does not remove or alter the covenant agreed.

7.10. The proposed flat is intended by the applicant for staff employed by the A5 unit. It is noted that the extraction system is now proposed to be installed in a habitable room of the first floor living quarters as such it is considered necessary to restrict the occupation of the living quarters by condition. Environmental Health have recommended restricting the occupation of the residential element. Should the A5 use cause a statutory noise or odour disturbance than measures can be secured through the environmental protection legislation. However, it is not deemed that the development will create a conflict between these two uses.

7.11. In terms of waste collection and deliveries, the application is adjacent to a public house which has unrestricted deliveries and waste collections. As such, it is deemed unreasonable to seek to control the hours of delivering goods or collecting waste for this unit.

7.12. The provision of the extraction and ventilation equipment has been included as part of the proposal and would aid in ensuring the impact on the adjoining residential uses is minimised. Environmental Health recommend that the extraction system as detailed in the application should be fitted and maintained as recommended by the manufacturers, Consequently, it suggested that this be conditioned.

7.13. It is noted that in terms of fire resistance for the flat adjoining the premises; fire safety doors are to be installed to the flat and at first floor level. The separating wall between the flat and shop is masonry construction and therefore the applicant's agent confirms no upgrading is required. Building Regulations approval will be required for the change of use of the existing residential areas to hot food takeaway.

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## **PART FOUR – CONCLUSION**

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### **8. Planning Balance and Conclusion**

8.1. The proposed development utilises an existing commercial unit and is appropriate in terms of the buildings scale and location. The use will result in an acceptable level of traffic and has an acceptable impact on highways as required by policy T10 of the Mid Suffolk Local Plan. Whilst the proposal does not include off road parking this is the same arrangement as the current use of the building for retail.

8.2. Therefore, whilst there is no specific policy regarding retail or commercial uses within a village setting, outside of a town centre or principal shopping area, the proposed development is considered to accord with the issues and considerations identified within the Mid Suffolk Local Plan policies S7, E9, E10, and E11 which relate to other types of new businesses or commercial units.

8.3. Additionally, the proposed internal works to facilitate this change of use have been evaluated in terms of their impact on the heritage asset and its significance. The works allow for the protection and retention of historic fabric and are fully reversible. The works will ensure the use of the building does not harm the historic fabric and protects the amenity of the adjacent residential uses.

8.4. Also having regard to the adopted SPG, the villages of Rickinghall and Botesdale will remain to be served by existing facilities in terms of village shop and the unit could revert back to a retail unit without the need for planning permission. It also remains in commercial use. However, it is recognised that the post office service would be lost and its retention is supported by the local people. Nevertheless, the premises have been vacant for over a year.

8.5. As such, the development is considered to generally accord with the provisions of Mid Suffolk Local Plan 1998.

8.6. However, the plan may be considered absent or silent in terms of commercial development outside of towns which is not industrial. In accordance with section 38 (6) of the Planning and Compulsory Purchase Act 2004, the determination of a Planning Application must be made in accordance with the plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration of significant weight. Paragraph 11 of the NPPF states that where the development plan is absent or silent permission should be granted unless any adverse impacts of doing so would significantly outweigh the benefits when assessed against the policies in the Framework.

8.7 Furthermore, Policy FC1 of the Core Strategy Focused Review states that where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise—taking into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the

benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or Specific policies in that Framework indicate that development should be restricted.

8.8 The benefits of the scheme in terms of continuing to provide commercial activity of a unit, contributing to rural economy and securing employment use, whilst having an acceptable impact in terms of highways and neighbour amenity, are considered to outweigh any harm caused by this development as discussed in this report. Furthermore, the proposed development would continue to support economic growth in accordance with paragraph 80 of the NPPF.

8.9 The proposed internal works to facilitate this change of use have been evaluated in terms of their impact on the heritage asset and its significance. The works allow for the protection and retention of historic fabric and are fully reversible. The works will ensure the use of the building does not harm the historic fabric and protects the amenity of the adjacent residential uses.

8.10 In conclusion, the proposal is generally in accordance with the development plan as a whole and it is considered that the adverse impacts from the proposed development do not significantly and demonstrably outweigh the benefits of the development explained in this report.

## **RECOMMENDATION**

That authority be delegated to Corporate Manager - Growth & Sustainable Planning to grant permission subject to the conditions a set out below:

- Time Limit
- Approved Plans
- Occupancy Restriction – only an employee of the business
- Flue to be painted black
- Hours of operation which includes any deliveries/collections to be 11am to 10pm Monday-Sundays including Bank Holidays
- Implementation of the additional sound proofing to be installed
- The extraction system to be fitted and maintained as recommended by the manufacturers