

## **Committee Report**

**Item No:**

**Reference:** DC/19/00336

**Case Officer:** Sian Bunbury

**Ward:** Rickinghall & Walsham.

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

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## **RECOMMENDATION – GRANT PLANNING PERMISSION WITH CONDITIONS**

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### **Description of Development**

Planning Application. Change of Use of ground floor to A5 Hot Food Takeaway. Installation of extract equipment internally and flue through roof. Internal alterations to provide sound and fire-proofing to party walls and floors.

### **Location**

Bell Hill Cottage And The Newsagent , The Street, Rickinghall Inferior, IP22 1BN

**Parish:** Rickinghall Inferior

**Expiry Date:** 26/04/2019

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

**Development Type:** Change of Use

**Applicant:** Mr Y Karakus

**Agent:** Mrs S 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 :

A Committee Call In request has been received from Cllrs Fleming and Osborne.

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

Members of Committee 'B' considered previous applications on the site (DC/17/04483 - Planning and DC/17/04484 - LBC) on 3.1.18 and visited the premises on 24.1.18. These applications were later withdrawn.

DC/18/01379 (Planning refused) and DC/18/01380 (LBC granted) were considered by Committee 'B' on 15.8.18.

DC/18/01379 was refused for the following reason :

*"Paragraph 127 of the NPPF states that all developments should "create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users."*

*This approach flows into Policy E12 ("General principles for location, design and layout of industrial and commercial development") of the Mid-Suffolk Local Plan (Adopted 1998), which states:*

*"When considering proposals for new development or extensions to existing industrial or commercial premises, the district Planning Authority will have regard to the following criteria:  
.....development should not adversely affect neighbouring properties or land uses by reason of undue environmental disturbance such as noise, vibration, smell, noxious emissions or dust..."*

*Similarly, Policy H16 ("protecting residential amenity") states that the District Planning Authority will refuse development that materially reduces the amenity of adjacent dwellings and will also refuse "change to non-residential use, where such a change would materially and detrimentally affect the amenity of the area by means of.....nuisance or safety."*

*In this instance, it is proposed to convert an existing residential use (linked to an A1 retail use) to A5 hot food take-away in the rear portion of Bell Hill Cottage, whilst retaining an A1 use to the front. However, the only means of access for users of the A5 element would be through the A1 section and this could lead to noise nuisance to the rooms above which are part of a flying freehold.*

*The proposal also includes a new flue and extraction equipment which could lead to noise and odour nuisance to that property as well as the neighbouring property at Bell Hill House.*

*Therefore, the proposal, by reason of the lack of information with regards to the impact of the flue, insufficient detail of noise attenuation and fire-proofing and the proximity of the neighbouring properties, with particular reference to the flying freehold, is such that the proposal would have an unacceptable material impact on the amenity of adjacent dwellings, contrary to Local Plan Policies H16, E12 and paragraphs 12, 47 and 127 of the NPPF."*

The current applications (see associated LBC DC/19/00337) 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.

### **Details of Pre-Application Advice**

Prior to the submission of the current application pre-application discussions took place with Building Control, Environmental Health and Heritage Officers.

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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  
H16 – Protecting existing residential amenity  
H17 - Keeping residential development away from pollution  
E12 - General principles for location, design and layout  
T10 – Parking standards  
T10 - Highway Considerations in Development

## **Neighbourhood Plan Status**

This application site is within a Neighbourhood Plan Area.

The Neighbourhood Plan will be at Examination stage in April.

Accordingly, the Neighbourhood Plan has limited weight.

## **Consultations and Representations**

During the course of the application Consultation and Representations from third parties have been received. These are summarised below. (Summarised. Full responses are attached or available to view on-line.)

## **Summary of Consultations**

### **Botesdale Parish Council**

Comments/objects :

- The application has addressed few of the concerns voiced in previous two applications.
- The premises are now a thriving shop and family home which has not had the effect on residential amenity i.e. noise, litter, fumes, inconsiderate parking and increased traffic which the proposed takeaway would have. Current occupants have exposed new heritage features not referred to in the application
- Still significant concern about parking and traffic. Insufficient parking for four employees, delivery drivers and customers, as well as residents. No turning space. Parking on and obstructing pavements will not go away. Highways assessment is cursory.
- Parking/traffic/noise/odour/litter will have an unfortunate effect on residential amenity, beyond the adjoining neighbour
- Parish Councils consulted for their local knowledge and it would be encouraging to see that taken into account. Do not want a return to the parking and traffic issues associated with the previous use
- There is considerable local opposition – raising issues of fumes and odour and effect of traffic and parking
- The loss of residential space is not to be encouraged when there is a shortage of housing
- Many inaccuracies and misleading/incomplete information
- Until it closed last year the main use was a full time Post Office. The change of use will make the loss of the much needed service, permanent
- There is barely enough on-street parking residents and no evidence to support the claim that 50% of orders will normally be collected on foot
- Will be in direct competition with three existing businesses nearby, rather than benefitting vitality and viability of the centre
- Mid Suffolk's approach to sustainability is that proposals must conserve and enhance the local character, which has not been addressed
- Extended trading hours will erode residential amenity
- Supplementary Planning Guidance on Retention of Shops in Villages aims to encourage retention of rural services and future re-opening is not met
- Public Health England guidance recommends that planning policies control the over concentration and proliferation of hot food takeaways
- The adverse impacts do not outweigh the benefits

- Contrary to policies H16, T9,FC1 and FC1.1

### **Rickinghall Parish Council**

Objects as most of the concerns remain unaddressed.

- The current use as an antique shop adds variety to the businesses within the village and is well supported with daytime shop opening hours and a high proportion of pedestrian trade. It maintains the 3 bedroom family accommodation which is much needed
- Proposal likely to generate noise, fumes and litter impacting not only the adjoining dwelling.
- Entire village (this is not a market town) would be affected by increased traffic and parking problems
- There is insufficient parking for customers and workers. A traffic survey in 2016 highlighted problems of parking at the Newsagent/Post Office and parking on the pavement
- Disheartening to see how little notice is taken of local knowledge and information. Botesdale and Rickinghall are struggling with traffic and parking issues.
- Problems with delivery vehicles and customers and nowhere to turn around, contrary to policy T9
- Refer to comments on DC/17/04483. Information on the extraction system is still inadequate and consideration should be delayed until properly addressed
- Objections relating to parking have not been addressed. Request Highways to carry out a parking survey as they did at Eye for similar premises. Bollards in front of the shop were previously supported by residents
- Loss of residential space is contrary to current aim of Mid Suffolk to increase housing stock
- Although Botesdale and Rickinghall are, together a Key Service Centre, they retain a village feel with a handful of long-established retail premises in a predominantly residential community
- Supplementary Planning Guidance on Retention of Shops in Villages aims to encourage retention of rural services and future re-opening is not met. Both Parishes have been pursuing a replacement Post Office and so far unable to find alternative arrangements
- Public Health England guidance links obesity with the proliferation of hot food takeaways and the NHS urges planning authorities to manage the impact of hot food takeaways in proximity to schools. There are four existing takeaway businesses within sight of this shop
- Applicant states that a pizza takeaway will benefit the vitality and viability of the centre. Loss of trade will affect existing businesses which have recently invested in this direction
- Contrary to Policies FC1 and FC1.1 as this application neglects any consideration of any benefits of the proposal and no evidence to enhance the local character . Adverse impacts are abundantly clear

### **BMSDC Economic Development**

- No objection. The premises are easily accessible and located in the main street of the village, close to other pubs and shops and on-street parking. The application will retain the ground floor for commercial use and help to support four new jobs.

### **BMSDC Environmental Health Land Contamination**

- No objection

### **BMSDC Environmental Health Noise, Odour , Light**

- No objection providing:

- Additional sound proofing below the existing shop ceiling and party walls (ground floor) are provided with neighbouring residential premise, as per drawings and specification submitted by the applicant.
- Grease and carbon filters are installed together with noise attenuators to the internal ducting of the ventilation flue as per the details submitted and Planning Statement by Roberts Malloy Associates dated January 2019.

### **SCC Highways**

- Originally commented that parking information should be provided.
- Later comment - On the premise that parking provisions are no different to that which was both previously approved & previously existing, SCC would not wish to raise an objection.

### **SCC Fire and Rescue**

- Comment on access and fire fighting facilities which must meet Building Regulations. No additional water supply is required. Recommend consideration be given to an automatic fire sprinkler system, and water flow rates should be determined.

### **Historic England**

- Do not wish to comment. Views of specialist conservation advisor should be sought.

### **Representations**

- This is the third time the proposal has been submitted. The party wall issue may have been addressed but the same underlying issues apply
- The application attempts to override planning legislation and residents' views. Overlooks major concerns, makes intimidatory comments and should consider the benefits of the existing business
- Main problem of parking in The Street as the premises does not have its own car park. On-street parking in evenings and weekends is taken up by residents, and those using existing take-aways and The Greyhound PH
- Road narrows at this point and vans would need to park on the pavement. This results in safety concerns and loss of privacy in front of windows
- Nowhere for the proposed 2 employees plus 2 part time to park
- The other branches in this chain offer delivery. Will delivery cars or scooters need to be accommodated too?
- Will cars park in the adjacent 'Bell' car park, to the detriment of their customers?
- Parking on the road will affect visibility into and out of 'The Bell' car park
- Submitted photographs do not truly reflect the parking situation
- The application should not be granted unless provisions are included to effectively and satisfactorily address issues of safety and convenience and traffic
- Competition is good for the consumer but there are already two very good fast food outlets and both pubs in the village offer hot food. Questions whether there is sufficient demand to sustain another business.

- On route home for school children – is this healthy? Health and well-being should be considered (Public Health England Guidance 2017)
- Planning powers can be used to help combat national obesity, particularly amongst children
- Litter, noise, congestion and traffic chaos already caused by existing services, and would be added to
- Late night opening would potentially create a nuisance. Hours are likely to be increased, as happened at the Eye premises
- No proof that the continued work on insulation and fire proofing will work
- Opening hours of 11am to 10pm will probably cause issues for local residents and particularly adjoining property – car noise, voices and smells
- The adjacent private dwelling has a bedroom above
- This is a listed property and not suited to the modern take away, and is in a Conservation Area. Would detract from the history of this area
- The outlook and the street scene including The Bell and Bell Hill House will be spoiled by branding and on-street promotion
- Panelling has recently been uncovered and should be looked after
- Submitted photographs are out of date and boarding over the renovated walls would deny this heritage asset to the community
- Considers the proposed sound/smell proofing to be detrimental to the fabric of the 16<sup>th</sup> century building. Introducing non permeable barrier will be at odds with the original construction and potentially damaging
- Use as a temporary antiques and furniture shop recently has been a pleasure and a diverse retail unit
- The current use harmonises well with its surroundings, adheres to planning policy and its benefits should be maintained rather than changed
- Rickinghall should provide a variety of amenities, and should have a postal/newsagent
- Would represent another step away from quiet and relatively unspoilt village which residents enjoy and value
- Extraction fumes would go over the adjacent Hotel car park and outside seating area
- Beyond that car park are residential properties
- No proof that 50% of customers will arrive on foot. Food will get cold walking 15minutes along the linear development of the villages
- Question what signage there might be in the future
- Why not convert the building into a home?
- Rickinghall is a village, a rural settlement not a town
- Large bins would be unsightly and inhibit use of the narrow passage way by disabled people
- Nuisance from heavy vehicles collecting waste, and obstruction and would be an eyesore
- How would fats and oils be disposed of satisfactorily?
- Although this application has attempted to improve soundproofing at the front of the property it now turns the whole downstairs residential property into a fast food takeaway, abutting the attached residential property, with poor sound insulation.
- Concern over fire safety to attached timber framed residential property, directly above and to the side. No mention of fire separation to adjacent property
- Due to bedroom being above and over the shop entrance there would be disturbance until 10pm every night and beyond these hours with food preparation
- Drainage from the property runs into adjacent property and is frequently blocked, which would be wholly unacceptable for a commercial kitchen operation
- Noise carrying from the proposed kitchen/prep area and corridor into adjacent residential property
- Would have a major negative impact on enjoyment of attached residential property, and this part of the villages

- Would lose an affordable 3 bedroom property, being turned into a very small 2 bed flat, which is not in the interest of the local community
- Erroneous statements in relation to adjacent ownership and timing of responses
- If approved the permission should contain covenants requiring the applicant to detail and complete all remedial nuisance work before the premises can start to trade

## **PLANNING HISTORY**

<b>REF:</b> DC/17/04483	Planning Application - Part change of use to form A5 hot food takeaway with extraction equipment and flue.	<b>DECISION:</b> WDN
<b>REF:</b> DC/17/04484	Listed Building Application - Insertion of internal extraction equipment with external flue, internal sound proofing and fire-proofing partitions and new internal door.	<b>DECISION:</b> WDN
<b>REF:</b> DC/18/01379	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.	<b>DECISION:</b> REF
<b>REF:</b> DC/18/01380	Application for Listed Building Consent. Works to facilitate change of use of rear of building to hot food takeaway, retention of existing front room for retail use, extract equipment internally and flue through roof, internal alterations as per Schedule of Works.	<b>DECISION:</b> GTD
<b>REF:</b> DC/19/00337	Listed Building Consent Application. Works to ground floor to create A5 Hot Food Takeaway. Installation of extract equipment internally and flue through roof. Internal alterations to provide fire and sound-proofing to floors and party walls.	<b>Associated LB application</b>

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## **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 premises are currently in use as an Antique shop with ancillary residential

accommodation to the rear and above. 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 the 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 contains the residential accommodation.

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 a change in road surface delineates parking spaces, 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 benefit from a Co-op, pubs, fish and chip shop and Chinese takeaway, school, Churches and Village Hall.

## **2. The Proposal**

2.1. The application varies from the previous application in that the retail element has been removed from the proposal and the scheme now includes a self-supporting sound and fire-proofing element at the front of the property. The application seeks change of use of the ground floor to A5- Hot Food Takeaway. This includes kitchen preparation area at the rear of the property. Extract equipment is to be provided internally with a flue through the roof. Internal alterations, including provision of sound and fire-proofing to flying freehold rooms, party walls and floors is proposed. New independent timber stud walls and ceiling are proposed to the front room of the building. This is self-supported and does not touch the existing. No historic fabric is affected and the work is reversible.

A self-supporting decorative glazed partition will be inserted within the entrance lobby, and which does not form part of the sound-proofing. A new aperture in the masonry wall is proposed as a serving counter, and formed part of the previous proposals. 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 and a bathroom. Access to the flat is via a side door and an existing staircase, with fireproof upgrading. 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. The line of this partition will denote the original structural line of the historic building. Works to the modern ceiling at the rear of the unit will provide both fire separation and acoustic. There will be the installation of extract and filtering ducting internally (within a 60min. fireproof and acoustic cupboard) and an external flue. There are no other external works other than the flue. Bin storage to the side of the building is as in the previous applications. 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 (staff arriving at 11am to set up); seven days a week including bank holidays. Delivery of goods is advised as within the times 11am to 5pm Monday to Saturday.

2.4. Bin and waste disposal details are provided following standard practice.

### **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 proposal 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.

3.5. Bell Hill Cottage has functioned as a shop for many years and includes residential accommodation along with a rear garden area. 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 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. The previous use as a back office will become 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 was previously used as a Newsagents and Post Office and is currently an antique shop with residential use. The nearest Post Office is now in Wortham.

3.9. Should permission be granted for this application, the A5 unit could revert back to an A1 retail use under permitted development rights. The change of use proposed does retain the commercial and economic activity of this unit.

3.10. It is recognised that existing businesses already provide similar hot food takeaway as part of their menu (The Bell and Greyhound Pubs, and the 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.

3.11. 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

3.12. 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.

3.13. 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.

3.14. 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 and the Rickinghall and Botesdale Parish Councils have raised concern regarding the highways implications of the development proposed. It has been advised that, when the shop/Post Office 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 this was the case 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 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. This is interpreted as referring to matters of highway capacity and congestion, as opposed to matters of highway safety.

4.4 SCC Highways has previously advised that the development is 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 has advised that, on the premise that parking provisions are no different to that which was previously approved and existing, they do not raise an objection.

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

5.1. The proposal seeks the change of use of the building to A5- Hot Food Takeaway. Previous applications (DC/17/04483 and DC/17/04484) were withdrawn due to an issue over the ceiling ownership of part of the unit. Later applications DC/18/01379 (Planning) was refused and DC/19/01380 (LBC) was granted.

5.2. The current proposal takes account of Members comments at committee. The mixed retail and Takeaway uses has been removed and the proposal is now for Takeaway only, with associated staff flat. Information is provided relating to the proposed flue, noise attenuation and fire-proofing, with a self-supporting inner lining to party wall and floor surfaces.

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.

5.4. The proposal does not have an impact on the street scene, and any signage would be the subject of further applications.

## **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. Local Plan 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. An associated application for Listed Building Consent is also under consideration (DC/19/00337).

6.4. 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 192 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 Paras 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". The Planning Authority is required to give any such harm considerable importance and weight.

6.5. The proposed development is to change the use of part 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.

6.6. The Heritage Team have commented at pre-application stage and on the associated listed building application, in which they consider that the proposal would cause no harm to the designated heritage asset because physical impact on existing historic fabric is minimised.

6.7. 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.

## **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. The adjoining property has bedroom accommodation above the front of the proposed A5 use.

7.2. The properties are located on the main road through Rickingham and Botesdale in an area where there is a level of commercial activity from the local pubs, takeaways and the Co-op store. The newsagent 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 takeaway (over 0.1miles away) is also open until 10.30pm throughout the week except for Tuesdays when it is closed. The Greyhound pub (approximately 132m away) is also open until 11pm weekdays and 12pm Fridays and Saturdays, and 10.30pm 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 pubs 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. 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 and sound proofing as detailed in the application should be fitted and maintained as specified, consequently it is suggested that this be conditioned.

7.8. It is noted that in terms of fire resistance for the flat adjoining the premises; fire proofing and separation is proposed. The proposed flat is intended to be for staff employed by the A5 unit. It is noted that the extraction system is proposed to be installed in a habitable room (bedroom) of the first floor living quarters and as such it is considered necessary to restrict the occupation of the living quarters by condition. This was previously recommended by Environmental Health.

7.9. 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.

## **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 is unlikely to result in an unacceptable level of traffic generation or an unacceptable impact on highway safety. The residual cumulative impacts on the road network are unlikely to be severe. 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 a village shop at the Co-op and the unit could revert back to a retail unit without the need for planning permission. It also remains in commercial use.

8.5. However, the Local 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 there are no relevant development plan policies permission should be granted unless NPPF policies that protect assets of particular importance provide a clear reason for refusal, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework. The Framework protects heritage assets, but the proposal does not harm these.

8.6 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.

8.7 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.

8.8 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.

8.9 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 Acting Chief Planning Officer - Growth & Sustainable Planning to grant permission subject to the conditions a set out below:

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

**(3) And the following informative notes as summarised and those as may be deemed necessary by the Corporate Manager:**

- Pro active working statement
- Support for sustainable development principles