

## **Committee Report**

**Item No: 7A**

**Reference: DC/22/04313**

**Case Officer: Amelia Powell**

**Ward: St Peter's.**

**Ward Member/s: Cllr Paul Ekpenyong.**

---

---

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

---

### **Description of Development**

Full Planning Application - Subdivision and part change of use of unit (former vacant Poundland Class E(a) retail unit) to a hot food takeaway (Sui Generis<sup>1</sup>) including new glazed frontage, creation of side access, extraction flue system and 3No Condenser Units.

### **Location**

Unit 1, Gipping Way, Stowmarket, Suffolk IP14 1RA

**Expiry Date: 25/10/2022**

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

**Development Type: Change of Use**

**Applicant: Smith Jenkins Ltd**

**Agent: Baldip Basi**

**Parish: Stowmarket**

**Density of Development:**

Gross Density (Total Site): 93sq.m

**Details of Previous Committee / Resolutions and any member site visit: None**

**Has a Committee Call In request been received from a Council Member (Appendix 1): No**

**Has the application been subject to Pre-Application Advice: No**

---

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

---

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

The premises/site is owned by Mid Suffolk District Council, although the application is itself submitted by a takeaway operator- Papa John's. This part of the building is currently vacant.

---

<sup>1</sup> In a class by itself

---

---

## PART TWO – POLICIES AND CONSULTATION SUMMARY

---

### Summary of Policies

#### **Stowmarket Action Area Plan [21 February 2013]**

First, we need to consider the detail within Policy 5.2 [10] because it contains a caveat that is central to the consideration of the application to hand.

Policy 5.2 [10]

*“For the purposes of development, within the defined town centre any retail frontage (A1-A5) that is not within the Primary Shopping Frontage will be considered as being within a Secondary Shopping Frontage.”*

Officer comment:

1. The application site is within the Defined Town Centre.
2. It is not within the Defined Primary Retail Frontage.
3. Whilst it is not within the Defined Secondary Retail frontage the fact that it is a lawful retail use that fronts customers using the entrance, the effect of Policy 5.2 [10] is to put it in a Secondary Retail Frontage.

Having established that the premises can be defined as Secondary Retail Frontage we need to move onto Policy 5.4 [4 &5].

5.4 [4] states that to protect Primary Retail Frontage takeaways will only be permitted in Secondary Retail frontages. This application site is in a Secondary Retail frontage by virtue of the definition provided by Policy 5.2 [10].

5.4 [5] which does not permit takeaways outside the town centre is not engaged as the application site is within the Town Centre.

This takes us to the most important policy for the determination of the change of use application. Policy 5.4 [4]. It states

Policy 5.4 [4] Hot food takeaways

*“In order to protect the sensitive areas of the town centre, the Council will only permit proposals for new A5 uses (hot food takeaways) within the town centre in Secondary Shopping Frontages.”*

**Officer comment:**

The proposed change of use is acceptable in principle as it complies with Stowmarket Action Area Plan Policy 5.4 [4] which specifically addresses takeaway uses in the Town Centre as the application site is within a Secondary Retail frontage within the Town Centre where takeaway uses are permitted.

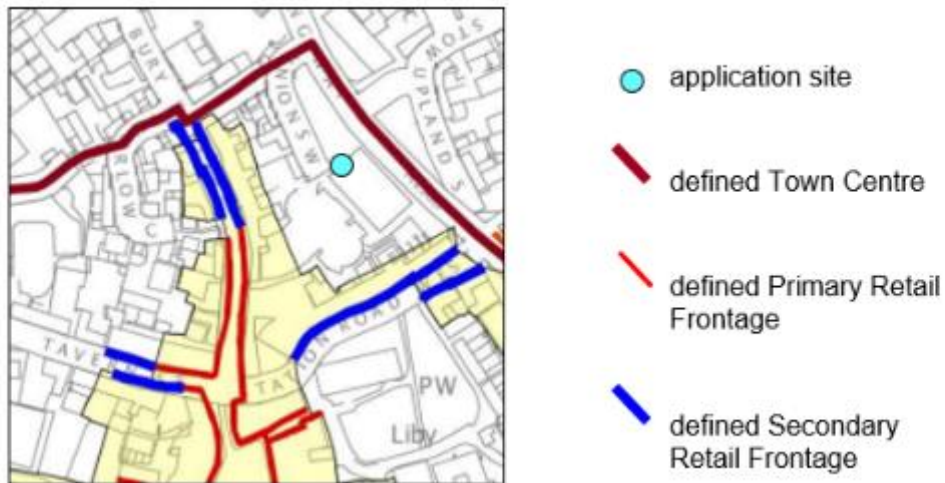


Figure 2 Extract from Stowmarket Action Area Plan - Map 5.1 Town Centre

**Mid Suffolk Core Strategy Focused Review [2012]**

- FC1 - Presumption in favour of sustainable development
- FC1.1 - Mid Suffolk approach to delivering Sustainable Development
- FC3 - Employment

**Mid Suffolk Core Strategy [2008]**

- CS1 - Settlement hierarchy

**Mid Suffolk Local Plan [2008]**

- H16 - Protecting existing residential amenity
- GP01 - Design and layout of development
- SB02 - Development appropriate to its setting
- HB01 - Protection of historic buildings
- HB08 - Protecting the character of conservation areas

**NPPF 2021 [including]**

- Section 7: Ensuring the vitality of town centres**
- Section 16: Conserving and enhancing the historic environment**

**Adopted Parking Standards 2019**

**Neighbourhood Plan Status**

None

**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**

### **Town Council (Appendix 3)**

**Stowmarket Town Council states:** [response recorded by DM service 9 September 2022]

“There is no objection to the proposed application”

### **National Consultee (Appendix 4)**

It has not been necessary to contact any national consultees on this application.

### **County Council Responses (Appendix 5)**

#### **SCC - Fire & Rescue Comments Received - 15/09/2022**

##### 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), 2019 Edition, 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, 2019 Edition.

##### 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).

### **Internal Consultee Responses (Appendix 6)**

#### **Environmental Health: [Noise, Odour, Light, Smoke] [dated 31 Aug 2022]**

No objection is raised but the following is recommended:

##### Ongoing requirement – BS4142 limit on external noise levels

The rating level of sound emitted from any fixed plant and/or machinery associated with the use hereby approved shall not exceed the background sound level during operating at any time.(taken as a 15 minute LA90 at the nearest/any sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Reason: to minimise detriment to nearby residential amenity

### Equipment

Prior to the development coming into beneficial use, the scheme of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, as submitted to and approved in writing by the local planning authority shall be installed. Such a system should be suitably attenuated and isolated to prevent noise nuisance. The equipment shall be effectively operated and maintained in accordance with manufactures instructions for as long as the proposed use continues.

### Kitchen Informative Note

The premises will require registration under Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2) and will need to comply with the design and structural standards contained in the relevant Food Hygiene Regulations prior to becoming operational. The applicant is advised to contact the Food and Safety team on 0300 1234000 (option 6) for further information.

### **B: Representations**

At the time of writing this report at least 6 letters/emails/online comments have been received. It is the officer opinion that this represents 6 objections, 0 support and 0 general comments. A verbal update shall be provided as necessary.

Views are summarised below:-

- Increase in anti-social behaviour (3)
- Noise (3)
- Fear of crime
- Inappropriate in a Conservation Area
- Increase in pollution
- Increased traffic and highways issues
- Loss of privacy
- Smells (odour)
- Sustainability
- Opening times
- Litter

*Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation. All correspondence is visible online*

### **RELEVANT RECENT PLANNING HISTORY**

<b>REF:</b> DC/19/04869	Full Planning Application - Part change of use of A1 unit to Gym (D2) including alterations to entrance door	<b>DECISION:</b> 12.12.2019	GRANTED
-------------------------	--	-----------------------------	---------

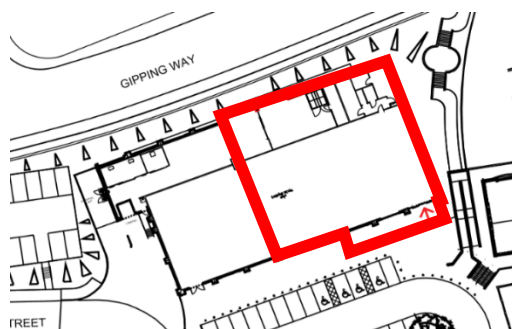


Figure 3 Site Location Plan for DC/19/04869

---

## PART THREE – ASSESSMENT OF APPLICATION

---

### 1.0 The Site and Surroundings

- 1.1 The application site is located within the northern part of Stowmarket Town Centre and is accessed via Union Street West. The site is occupied by a large detached former retail unit with a 76-space public car park located on the southern side of the site. Gipping Way bounds the site to its east: Union Street Long Stay Car Park to the north, and commercial uses are located to the south and west of the site, beyond the car park.
- 1.2 The unit was originally occupied by Aldi and more recently Poundland. Following a sustained period of vacancy, the unit was subdivided in 2020 and approximately half was converted to a Pure Gym.
- 1.3 The site is located in the Stowmarket Town Centre Conservation Area. The building is not Listed. The site is located within Flood Zone 1 and is not vulnerable to pluvial or fluvial flooding.
- 1.4 There are many public transport links within close proximity to the site with the Stowmarket Railway Station a relatively short distance away.

### 2.0 The Proposal

- 2.1 The application comprises the sub-division of the ground floor of the former 'Poundland Store' [now vacant retail] [now Class E] to create a takeaway unit with a floor area of 93sq.m. [1011sq.ft.] with the remainder of the ground floor [presently vacant] continuing to enjoy lawful retail use except where the building is now occupied by 'Pure Gym' under a planning permission from 2019.

*Note: Retail use and the indoor gym use both now fall into Class E of Schedule 2, Part A 'Commercial, Business and Service' of the Town and Country Planning [Use Classes] [Amendment] England] Regulations 2020. [relating to the Town and Country Planning [Use Classes] Order 1987, as amended]*

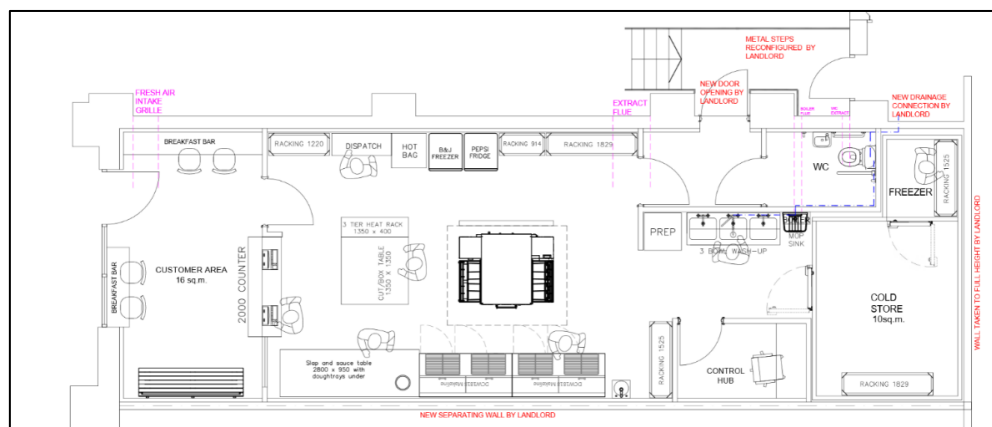


Figure 4 Proposed Ground Floor Plan

- 2.2 Also Included in the proposal is:

- The installation of a new shopfront.
- Installation of external plant [condensers and /intake extract flues]

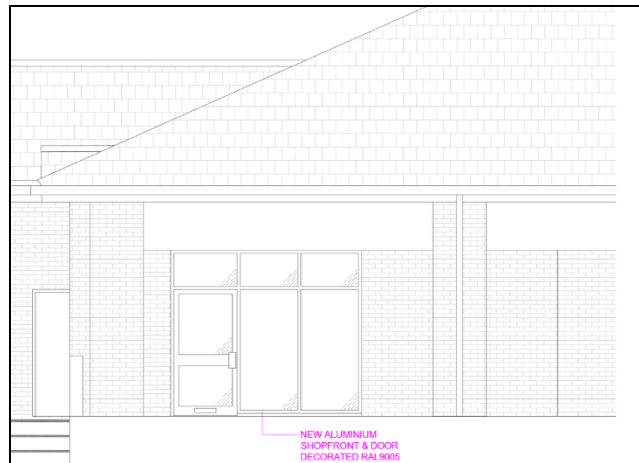


Figure 5 Proposed Shopfront

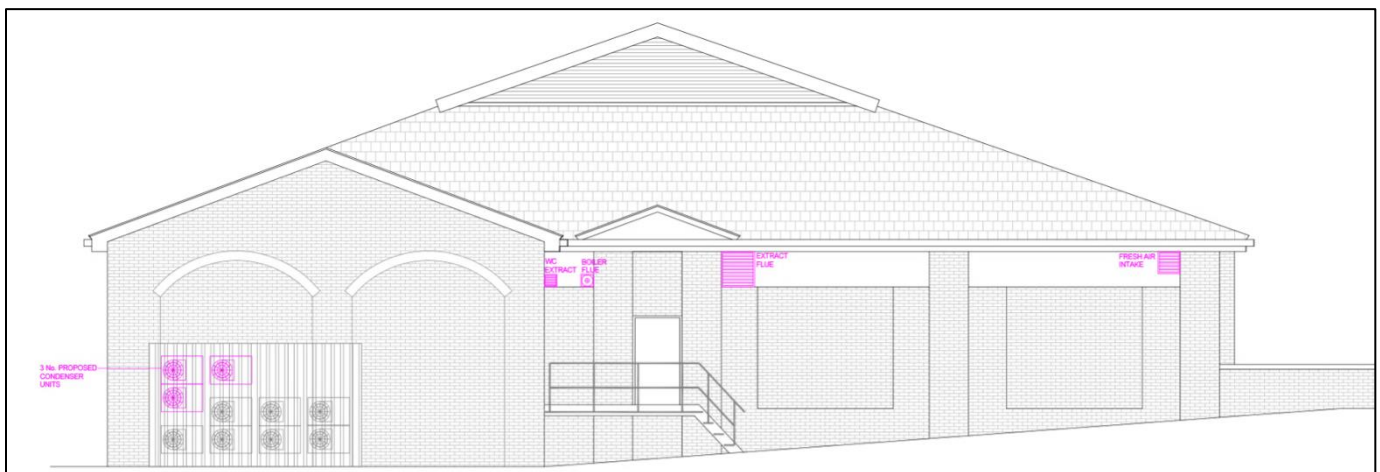


Figure 6 Proposed External Plant

2.3 'Papa John's' [the proposed operator] specialises in takeaway pizza.

2.4 The agent describes<sup>2</sup> proposed hours of business as follows:

Sunday – Wednesday [inclusive] 11.00 hours - 00.00 hours  
 Thursday – Saturday [inclusive] 11.00 hours - 02.00 hours

**Officer comment:**

*Members will have noted that the Council's Environmental Health Team does not object to the proposed hours. Whilst for three days nights of the week the business plans to be open until 2am this does mean it*

<sup>2</sup> Page 5 of supporting planning statement

*can support the night-time economy in the Town Centre. Clearly it is important to consider the impact that a late-night operation might have on residential amenity but the site sits behind Bury Street and beside a car park. Undoubtedly this part of the Town Centre experiences some disturbance from pubs, clubs and eateries during the busiest nights of the week. This to be expected in a Town Centre location.*

*It is expected that like other pizza takeaway operators Papa John's will have a significant proportion of its business within the 'delivered to your door' market, which suggests that customer visits to the premises will be tempered by the changes that have occurred to customer behaviour since the outbreak of covid and with the development of convenient delivery apps.*

- 2.5 The applicant's agent has confirmed [email 12.10.22] that the business will employ between 15-20 staff and that at peak times [weekend] there will be between 6 to 7 members of staff present at any one time.
- 2.6 Deliveries are likely to necessitate approximately 4 drivers. The agent has indicated that Papa John's obtain 2-4 parking permits for delivery drivers to utilise.

### **3.0 The Principle of Development**

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.

#### **3.2 Change of Use (including heritage considerations)**

- 3.3 The proposed change of use is policy compliant in that it is consistent with Policy 5.2[10] and 5.4[4] of the Adopted Stowmarket Action Area Plan which supports takeaway uses within Secondary Retail Frontages [as here] within Stowmarket Town Centre.
- 3.4 Retail policies for Stowmarket Town Centre are designed to protect the vitality and viability of the Town Centre and objective that is entirely consistent with the NPPF 2021 and the Government's Town Centre First philosophy.
- 3.5 In the Defined Town Centre, the Stowmarket Action Area Plan views takeaway use as complementing the range of retail experience available within a Secondary Retail Frontage without prejudicing conventional retail activity within the Primary Retail Frontages
- 3.6 The proposed change of use is therefore acceptable in principle
- 3.7 Setting aside the external alterations for a moment, the use of this unit for takeaway purposes will introduce a new level of activity into the conservation area in terms of customer activity as the premises have been vacant. However, if one reflects on the previous Poundland and Aldi uses, it is clear that they would themselves have created significant levels of activity in the vicinity. The activity generated by the proposed use will not impact the character of the conservation area to any greater extent than the previous lawful uses. The question of the impact of the shopfront on the character of the conservation area is dealt with in the section below.

#### **4.0 The shopfront (including Heritage considerations)**

- 4.1 The proposed shopfront is to be formed within what is presently a wall and access door to



the wider building.

- 4.2 It is of a simple design consisting of an aluminium frame and glazed door [all coloured Jet Black - RAL 9005].
- 4.3 The proposed shopfront is modern in character, lacking many of the traditional components found in traditional shopfronts. [eg: It does not have a stall-riser or pilasters] That said it is composed to present three equal panels to the frontage with a transom rail dividing the top quarter of the shopfront from the remaining three quarters. Mullions separate the three panels. The door to the unit occupies the land hand third. This reflects a traditional composition.

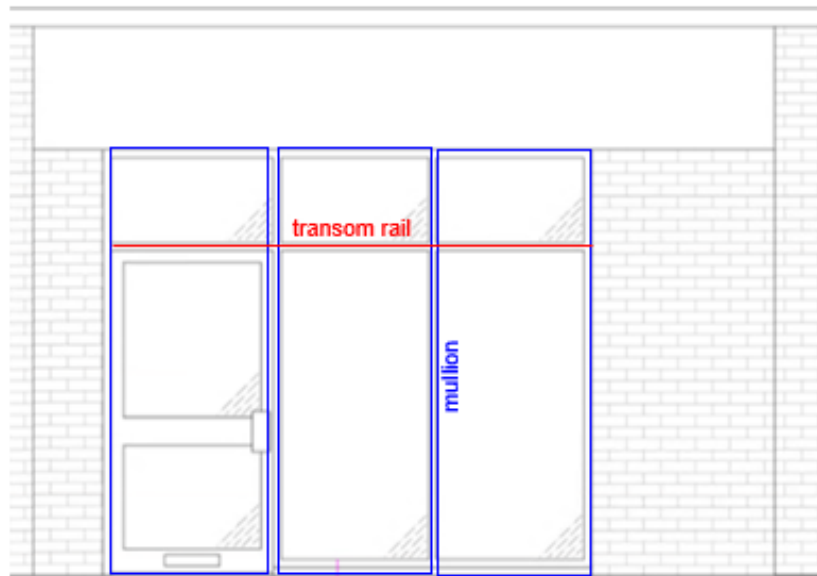


Figure 7 Proposed Shopfront Composition

- 4.4 The site sits within the Stowmarket Conservation Area and therefore the Council has a duty under Policy HB08 to consider the impact of the proposal on the character of the conservation area. Will it preserve and enhance that character?
- 4.5 The wider building is a modern intervention into the conservation area and is not without interest. [contrasting brick decoration, colonnaded entrance, brick piers, shallow pitched roof with Suffolk hips]
- 4.6 The proposed modern shopfront with the elements earlier is appropriate for this building and a traditional timber shopfront would appear incongruous and therefore would detract from the character of the wider conservation area.



Figure 8 Existing Building [former Aldi prior to former Poundland] application unit shown in red square



*Figure 9 Rear of existing buildings in Bury Street*

- 4.7 The building the subject of this application sits beyond a surface car park that sits behind historic frontages to Bury Street and as such is visually distinct from the historic core of Stowmarket Town Centre.



*Figure 10 Aerial view*

- 4.8 The site is considered to be sufficiently distant from listed buildings within the vicinity and the proposed shopfront so in keeping with the current appearance of the building within which it will sit that there will be no harm to the setting of any of these listed buildings

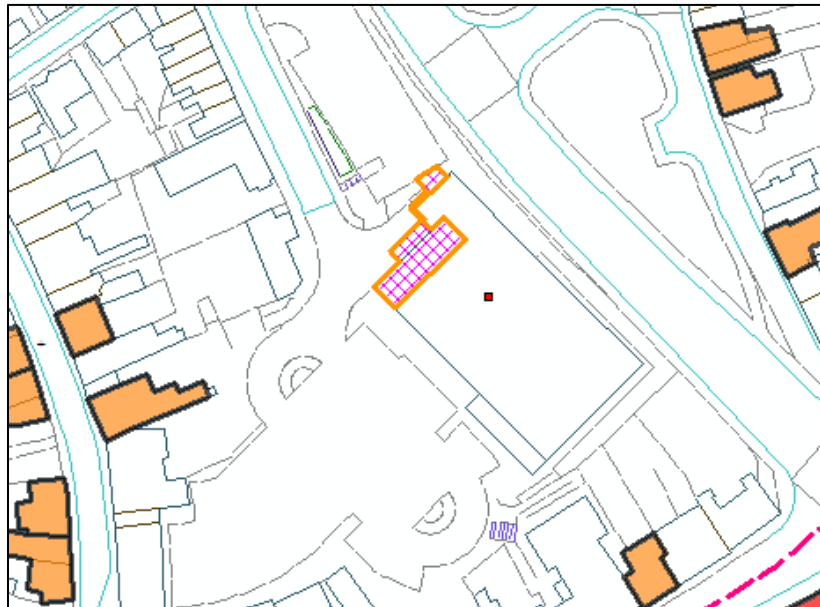


Figure 11 Listed buildings and their relationship with the application site

## **5.0 External plant**

- 5.1 Other external alterations, including the installation of plant and ventilation equipment, including a flue are modest in scale and consistent with the use of the property and the town centre location. On the basis that this new external equipment will be small scale and not be visible from any key views within the Conservation Area, there will be no adverse impact on its character or appearance.
- 5.2 The fans specified for use in the extraction installations are Woods Powerbox (see Appendix C below) together with a 500JM woods axial fan for the supply Air. However, the contractor is permitted to install equal approved units from alternative manufacturers and, as the contractor is responsible for the design of the installation, they are required to meet noise criteria as part of that approval. When installed, all plant is mounted on anti-vibration mountings in order to isolate them from the structure and double flange flexible connectors between the flue and fan equipment to minimise vibration.
- 5.3 Environmental Health (noise, odour, light and smoke) raised no objection to the proposal but recommended conditions relating to the following:
- Limit on external noise levels: the rating level of sound emitted from any fixed plant and/ or machinery associated with the use hereby approved shall not exceed the background sound level during operating at any time
  - Arrangements for internal air extraction, odour control and discharge into the atmosphere from cooking operations should be submitted prior to the development coming into use

## 6.0 Amenity

- 6.1 Environmental Health as previously indicated has raised no objection regarding some amenity issues. However, it is clear from some of the responses from local people that there are concerns regarding anti-social behaviour, noise and increase traffic/ highways issues, smells (odour) and a loss of privacy.
- 6.2 The nearest wholly residential buildings appear to be those to the north of the application site in Union Street West
- 6.3 Diagonally opposite the site is an existing restaurant

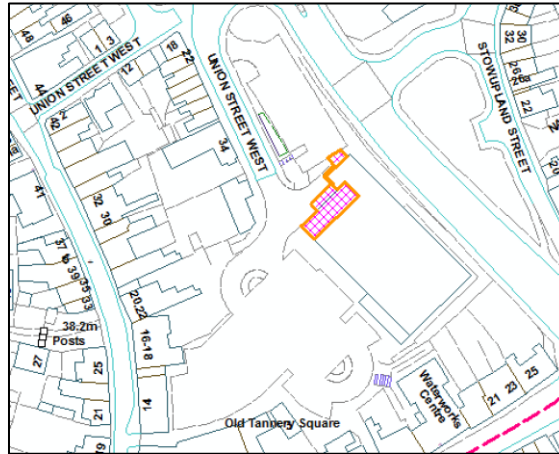


Figure 12 Map of immediate vicinity



Figure 13 Adjacent restaurant and residential properties in Union Street West



- 6.4 With a use such as this being located adjacent to a public car park there will be a likelihood of some customers choosing to eat their pizzas in their car [perhaps more so at night when friends are on a night out]. This in and of itself is not an issue if consideration is shown.
- 6.5 There is however a risk that unless bins are provided [or despite bins being provided] some may choose to throw packaging out of the car window once the pizza has been eaten. Clearly that is undesirable on a number of levels.
- 6.6 To combat this it is suggested that if Members are minded to agree the recommendation [approve] then conditions be added to require the operator [Papa John's] not only to provide a bin outside their premises and empty it before it overflows but also to agree a litter collection strategy with the local planning authority that requires them every morning to collect, bag and appropriately dispose of any Papa John's related litter within the car park.
- 6.7 Furthermore it is also recommended that Papa John's be required to display a sign on the carpark facing wall of their premises [details to be agreed] asking customers to show respect for people living near to the premises
- 6.8 There is a 24 hour gym, south of site, directly neighbouring the proposed Papa Johns establishment therefore, the area can already be noisy with users of the gym using the public car park to arrive and leave the premises.
- 6.9 The hours of business should also be restricted to those indicated by the agent in order to provide local assurance that hours cannot be extended without further approval.
- 6.10 Neighbour objection comments also raised concerns that there are too many fast-food establishments within close proximity to the proposed site. The establishment diagonally opposite the site is a restaurant, rather than a hot food takeaway.
- 6.11 Whilst some residents may be of the view above Members will have noted that Policy 5.4[4] of the Stowmarket Action Area Plan 2013 permits takeaways in Secondary Retail Frontages in order to protect sensitive areas of the town centre. This proposal is not considered to affect sensitive areas of the town centre, by affecting the primary retail frontages.
- 6.12 Furthermore, with the site being in Stowmarket Town Centre, having a variety of options is expected.

## **7.0 Highway matters and Parking**

- 7.1 The relevant vehicle parking standard is 1 space per 3 sqm. of public area, plus 1 space per 4 employees normally present. *[Suffolk County Council 'Adopted Guidance for Parking' document, third edition, May 2019]*
- 7.2 The public area within the proposed takeaway floorspace measures 16sq.m which equates to 5 parking spaces. [rounded down from 5.33]
- 7.3 It is expected that the use will require 4-6 employees to be present at the busiest times. Papa John's will obtain 2-4 parking permits for delivery drivers to utilise the adjacent public car park, as indicated in the planning statement submitted with this application.
- 7.4 The total parking space requirement is therefore 1-1.5

7.5 Whilst the proposal does not include any on-plot parking space it fronts a public car park. This is considered an appropriate solution to customer and staff parking particularly as the wider building was once in full retail use with all that implies in terms of parking demand.

7.6 The relevant cycle parking standard requires the proposed use to provide 2 cycle parking spaces [2 spaces per 50sq.m]. At 93sq.m the use generates a requirement for 4 cycle spaces. This can [if members are minded to approve the application] be conditioned as appropriate racks or other cycle parking equipment.

## **8.0 Waste and good deliveries**

8.1 The proposal will utilise the existing area adjacent to the building / loading bay to accommodate 2no. 1100 litre bins. It is anticipated that there will be one refuse bin for general waste and one for cardboard recycling. All bins would be emptied on a weekly basis. To prevent pests, refuse bins will be BIFFA lockable wheelie bins. The Applicant has a standard contract with a pest control agency to control and manage the presence of vermin around the premises. The premises would also be sealed to prevent pests gaining access via the windows or under the doors.

## **9.0 Conditions**

9.1 It is suggested that as well as the condition recommended by Environmental Health the following controls also be added

1. A litter collection protocol to be submitted by the applicant and approved by the lpa prior to the business commencing to ensure that the use adjacent to the car park does not result in litter from Papa John's products being strewn across the adjacent car park and left there. Papa John's will need to provide a commitment to daily early morning collection of any Papa John's related material in the car park.
2. Litter bin provision immediately outside the premises with commitment for emptying by Papa John's
3. Cycle parking spaces for 4 cycles to be provide prior to business opening
4. Hours of business restricted to hours indicated in the material submitted
5. Waste storage arrangements
6. Details of delivery driver permits (as indicated in the Planning Statement) to be submitted and agreed in writing

---

## **PART FOUR – CONCLUSION**

---

### **13.0 Planning Balance and Conclusion**

13.1 The site has been vacant since being formally used as Aldi and Poundland. The proposal will bring back the use of a vacant floorspace into a productive economic use.

13.2 This will help to support the vitality of the town centre.

13.3 The take-away establishment will provide jobs for 15-20 employees - with there being 6/7 members of staff in the store at any given point as well as approximately 4 delivery drivers.

- 13.34 The take-away will be beneficial to Stowmarket's night-time economy. The proposal lies in the town centre and is easily accessible from night life in the area such as local pubs, the nightclub Carbon and other recreational facilities in the centre such as the Regal cinema. Although there are other fast food establishments in Stowmarket Town Centre, none are in direct proximity to Papa Johns. The proposed establishment will add to consumer choice and with it being a centre, it is important for there to be variety and options.
- 13.5 Furthermore, the take-away will introduce further supervision of the car park at night. With there being a 24-hour gym, the proposal will provide natural surveillance, providing a sense of security and safety and therefore, enhancing inclusivity.
- 13.6 Although there is likely to be additional activity in the area that may or may not generate anti-social behaviour, conditions have been suggested to minimise the risk and, in any event, it must be recognised that this is a town centre location where late-night activity, particularly at weekends, is typical.
- 13.7 The proposed development is not considered to result in any significant adverse impact on highways safety, residential amenity, heritage assets, the environment or biodiversity interests to warrant refusal.
- 13.9 Therefore, in conclusion, proposal is acceptable with the added safeguards provided by the recommended conditions. Recommendation is to grant permission.

## **RECOMMENDATION**

That planning permission for change of use to takeaway and for the installation of a shopfront and external plant be **GRANTED** subject to conditions

**(1) That the Chief Planning Officer be authorised to GRANT Planning Permission subject to conditions as summarised below and those as may be deemed necessary by the Chief Planning Officer:**

1. Standard time limit
2. Approved plans
3. Litter Collection Protocol
4. Litter bin provision immediately outside the premises
5. Cycle parking spaces for 4 cycles to be provide prior to business opening
6. Hours of business restricted to hours indicated in the material submitted
7. Waste storage arrangements
8. Details of delivery driver permits
9. Limit on external noise levels
10. Equipment arrangements