

## **Committee Report**

**Item No:** 1

**Reference:** DC/17/04483  
**Case Officer:** Rebecca Biggs

**Ward:** Rickinghall & Walsham.

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

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### **Description of Development**

Planning Application - Part change of use to form A5 hot food takeaway with extraction equipment and flue.

### **Location**

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

**Parish:** Rickinghall Inferior

**Site Area:** 167 m<sup>2</sup>

**Conservation Area:** Rickinghall and Botesdale Conservation Area

**Listed Building:** Grade 2

**Received:** 01/09/2017

**Expiry Date:** 30/10/2017

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

**Development Type:** Change of Use

**Environmental Impact Assessment:** Not required

**Applicant:** Mr Yusuf Karakus

**Agent:** Mrs Sarah Roberts

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## **DOCUMENTS SUBMITTED FOR CONSIDERATION**

This decision refers to drawing number 01A received 01/09/2017 as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The plans and documents recorded below are those upon which this decision has been reached:

Application Form - Received 01/09/2017

Planning Statement - Received 01/09/2017

Elevations - Existing 03 - Received 01/09/2017

Floor Plan - Existing 02 - Received 01/09/2017

Defined Red Line Plan 01 A - Received 01/09/2017

Block Plan - Existing 01 A - Received 01/09/2017

Plans - Proposed 04 - Received 01/09/2017

Listed Building Justification Statement- Received 01/12/17  
Ceiling additional information - Received 02/01/2018  
Fixing Points for Ceiling Lining 05 - Received 10/01/2018  
Details of Ceiling fixing- Specification sheet- Table 3: Diagram 2. - Received 10/01/2018

The application, plans and documents submitted by the Applicant can be viewed online at [www.midsuffolk.gov.uk](http://www.midsuffolk.gov.uk). Alternatively, a copy is available to view at the Mid Suffolk and Babergh District Council Offices.

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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

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## **PART TWO – APPLICATION BACKGROUND**

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### **History**

The planning history relevant to the application site is listed below. A detailed assessment of the planning history including any material Planning Appeals will be carried out as needed in Part Three:

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.	To be determined
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### **All Policies Identified As Relevant**

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework, and all other material considerations. Highlighted local and national policies are listed below. Detailed assessment of policies in relation to the recommendation and issues highlighted in this case will be carried out within the assessment:

### **Summary of Policies**

FC01 - Presumption In Favour Of Sustainable Development  
FC01\_1 - Mid Suffolk Approach To Delivering Sustainable Development  
FC03 - Supply Of Employment Land  
CS01 - Settlement Hierarchy  
CS05 - Mid Suffolk's Environment  
CS12 - Retail Provision  
GP01 - Design and layout of development  
HB01 - Protection of historic buildings  
HB03- Conversions and alterations to listed buildings  
HB08 - Safeguarding the character of conservation areas

H17 - Keeping residential development away from pollution  
E12 - General principles for location, design, and layout  
NPPF - National Planning Policy Framework  
T10 - Highway Considerations in Development

### **List of other relevant legislation**

- Human Rights Act 1998
- Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
- Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
- The Conservation of Habitats and Species Regulations 2010
- Localism Act
- Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues.

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

The application was deferred from Development Committee on 03 January 2018. The application, prior to the meeting, was found to have the incorrect ownership certificate. Furthermore, representation had been received from a Neighbour's Solicitor which needed to be reviewed. The application was deferred to be reported back once correctly certificated and formalities reviewed. It was also recommended that a site visit be carried out on 24 January 3pm.

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

Pre-application advice was sought. The change of use was generally supported by the officer and recommended that the use ceased at 9pm.

### **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**

##### **Initial consultation comments**

##### **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.

### **Rickinghall Superior and Inferior Parish Clerk**

Rickinghall Parish Council object-

- 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.

### **Heritage Team**

The Heritage Team considers that the documentation submitted in support of this application falls below the requirements of paragraph 128 of the NPPF, as no assessment of the impact of the proposed work on the listed building has been made. The Heritage Team is not opposed to the change of use, however does have concerns regarding the necessity and justification of the proposed internal works through

introduction of fire lining/suspended ceiling and the possible effect on the internal character of the Grade II Listed Bell Hill Cottage.

Officer Note: Further information has been submitted as requested. A response from the Heritage Team is outstanding.

### **SCC - Highways**

Notice is hereby given the County Council as Highway Authority comment that 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.

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

No objection.

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

Confirm that in respect to noise and other environmental health issues that Environmental Health do not have any objection to the proposed development providing;

- 1) Additional sound proofing below the existing shop ceiling and party walls are provided with neighbouring residential premises as per drawing No. 4.
- 2) Grease and Carbon filters are installed together with noise attenuators to the internal ducting of the ventilation flue as per the details submitted in the Planning Statement.

### **Re-consultation with Heritage following submission of Listed Building Justification Statement-**

#### **Heritage Consultants- Place Services**

Acoustic solution will obscure the original internal wall which includes exposed timbers. This will cause some harm to the aesthetic value of the building.

The soundproofing of the ceiling has potential to cause harm. Not enough information has been provided by the applicant pertaining to the date of the ceiling fabric or the manner in which the proposed suspended ceiling would be attached. As such I am unable assess the level of harm to the fabric.

The principal of the application and change of use is acceptable. I would however recommend investigations are undertaken to ascertain the age/significance of the ceiling fabric and also find if less intrusive acoustic/soundproofing solutions are available.

### **Re-consultation following additional information regarding ceiling, correct ownership certificate and representation from Bell Hill House.**

#### **Heritage Team**

Response is outstanding will be provided as verbal update or late paper

#### **Rickinghall Parish Council**

Any representation will be provided as verbal update or late paper

#### **Botesdale Parish Council**

Any representation will be provided as verbal update or late paper

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

It is correct that to aid dispersion of residual odour (after filtration) it is recommended that this is at or above ridge height but this is not critical or the only factor MSDC Environmental Health have taken into account. The predominant wind direction will take residual odour away from Bell Hill House and there are no windows in the roof (as far as I am aware) this should be satisfactory providing the usual grease and carbon filters are incorporated into the design. There is no definitive methodology to calculate this type of flue height for kitchen ventilation, only unofficial guidance/good practice.

Included a diagram to show the relationship of ridge height for chimneys and flues in the Building Regulations. The further away from the ridge you go the lower the discharge height can be.

As detailed in their previous response, the Environmental Health Officer does not object to the development provided the filtration and silencing equipment is installed.

In regards to the need for sound-proofing the ceiling, in the absence of any information from a competent person they would not be able to advise on the adequacy of sound insulation between the premises other than old and timber frame building can be very poor due to the historic methods of construction and materials used.

*Officer Note:* The Case Officer met with the Environmental Health Officer regarding the need to provide the sound-proofing to the ceiling of the existing shop. Environmental Health advised that if the sound-proofing to the ceiling were to be removed from the proposal, then the applicant would need to demonstrate that the change of use would have an acceptable impact on neighbour amenity in terms of noise impact. A Noise Assessment would need to be completed by a competent acoustic consultant/surveyor, and will need to demonstrate that either the existing structure provides adequate sound insulation against the noise from inside the proposed A5 unit or if not some other method of noise mitigation.

As the change of use of the shop to hot food takeaway does not require building regulations approval, sound proofing and fire proofing is not required under this legislation. However, the Planning Authority would expect the planning application to demonstrate that there is an acceptable impact to neighbour amenity and secure suitable protection measures for this historical asset.

## **B: Representations**

### **Initial representation received**

- 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? Rickingham and Botesdale have a mixed population with a large amount of elderly retired people.
- Rickingham 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
- Reference to Bradford City Council's SPD regarding hot food takeaways.
- Concern regarding SCC Highways response

**Re-consultation following additional information regarding ceiling, correct ownership certificate and representation from Bell Hill House.**

Two objections received at the time of writing the report. Further summary of responses will be presented to members as late papers or verbal update.

- Fail to see what difference the new planning 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

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

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From an assessment of relevant planning policy and guidance, representations received, the planning designations and other material issues the main planning considerations considered relevant to this case are set out including the reason/s for the decision, any alternative options considered and rejected. Where a decision is taken under a specific express authorisation, the names of any Member of the Council or local government body who has declared a conflict of interest are recorded.

### **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 Rickingham 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 Rickingham and Botesdale Conservation Area.

1.4. Rickingham 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 change of use of the former Newsagents and Post Office and first floor residential bedroom and store to A5- Hot Food Takeaway. The rest of the unit is proposed to be used as accommodation for a person related to the A5 use. This includes a ground floor sitting room and kitchen and first floor bedroom and bathroom. The rear garden space shall be retained for residential use.

2.2. The works include internal partitioning for sound and fire separation between the shop front and Bell Hill Cottage, false ceiling above shop front for sound and fire separation, and 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. National Planning Policy Framework**

3.1. The National Planning Policy Framework (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be considered for decision-making purposes.

### **4. Core Strategy**

#### 4.1. Core Strategy 2008

-CS5- Mid Suffolk Environment- All development will maintain and enhance the environment, including the historic environment, and retain the local distinctiveness of the area.

### **5. Neighbourhood Plan/Supplementary Planning Documents/Area Action Plan**

5.1. Botesdale and Rickingham Parish Councils have agreed to work together to prepare a joint Neighbourhood Development Plan (NDP). Mid Suffolk District Council confirmed the designated NDP Area on 11 May 2017. The area covers the parishes of Rickingham Inferior, Rickingham Superior, and the parish of Botesdale.

### **6. Saved Policies in the Local Plans**

#### 6.1. Mid Suffolk Local Plan 1998

-E5- Change of use within existing industrial/commercial sites- The Local Authority will give favourable consideration to change of use or new buildings within existing areas for B1 use. B2 use will be considered on impact on highways, the environment and amenity.

-E6- Retention of individual industrial and commercial sites- Recognise the importance of retaining existing employment uses and would seek significant benefits for change of use to non-employment generating activities

-S7- Provision of Local Shops- Relates to new Local Shops, conversions, and extensions to existing shops within Settlement Boundaries. Should reflect the Scale and appearance of its surroundings, no significant loss of amenity for nearby residents, not detract from environmental amenity and local distinctiveness and take account of adopted parking standards where new shops are proposed.

-S9- Retaining traditional shopfront

-H16- Protecting existing residential amenity

- H17- Keeping residential development away from pollution

-T9- Parking Standards

-T10- Highway Consideration in development

-HB1- Protection of Historic Buildings

-HB3- Conversions and Alterations to Historic Buildings - Should not detract from the architectural or historic character of the existing building or its setting and the timber frame remains largely unaltered.

-HB8- Safeguarding the character of conservation areas- Protecting character and appearance of conservation areas.

## **7. The Principle of Development**

7.1 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.

7.2. 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.

7.3. 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.

7.4. 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

7.5. 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.

7.6. 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.

7.7. The proposal seeks to change the use of the existing shop and back office and one upstairs bedroom and storage room to A5- hot food takeaway. The shop will form the main service area with the back office becoming a prep and storage area. Upstairs the bedroom will form a flue room and the storage area will remain storage but used in association with the commercial use. The Supplementary Planning Guidance- Retention of Shops, Post Offices and Public Houses in Villages (SPG) (2004) states that permission will not be granted for change of use which could cause the loss of an existing general store/post office within the settlement boundary or within comfortable walking distance unless it can be demonstrated that alternative facilities are available in the same village or there is no reasonable prospect of the use being retained or resurrected or there is no significant support from the community.

7.8. 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.

7.9. 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. The change of use proposed does also retain commercial and economic activity of this unit.

7.10. 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.

7.11. 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.

7.12. 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

7.13. 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.

7.14. 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.

7.15. 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.

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

8.1. 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.

8.2. 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.

8.3. 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.

8.4. SCC Highways advised that they raised no comment regarding this development. However, given the level of responses received from neighbour's further advice was sought from Highways. SCC Highways reviewed the application and remain of the view that this development will not have a severe cumulative impact on the highway and therefore maintain the Highway Authority no comment response.

8.5. This view is taken with regard to the previous retail use and 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.

8.6. SCC Highways advise that Planning Committee may wish to ask for a pre-and post-traffic survey to assess any change in traffic volume. This is not deemed possible as the use as a shop ceased over a year ago.

8.7. SCC Highways do not consider it appropriate at this location to introduce parking and/or loading restrictions such as double yellow lines and the footway at this location is not wide enough to install bollards without compromising the free flow of pedestrian movement. A narrowing of the available footway would be especially detrimental to wheelchair and mobility scooter users.

8.8. 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.

8.9. 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.

## **9. Impact On Residential Amenity**

9.1. 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.

9.2. However, these residential properties are already located on the main road through Rickinghall 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.

9.3. 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.

9.4. 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.

9.5. 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.

9.6. Environmental Health raises no objection to the proposal subject to conditions detailed above. This includes sound-proofing and odour control measures on the flue.

9.7. Further clarity regarding the Environmental Health Officer's consideration of the flue was sought following further representation from the adjoining neighbour's Solicitor. The Officer advised that to aid dispersion of residual odour (after filtration) it is recommended that the flue is at or above ridge height but this is not critical or the only factor which the Officer has taken into account. As the predominant wind direction will take residual odour away from Bell Hill House and there are no windows in the roof (that the Officer knows of) this should be satisfactory providing the usual grease and carbon filters are incorporated into the design. There is no definitive methodology to calculate this type of flue height for kitchen ventilation, only unofficial guidance/good practice.

9.8. 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.

9.9. 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.

9.10. 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.

9.11. The adjoining neighbour's solicitor recommended conditions regarding agreement of extraction equipment, restriction of occupation of flat with Bell Hill Cottage, and restriction of deliveries and waste collection to between 7am and 7pm Monday to Saturdays with deliveries or waste collection on Sundays or bank holidays.

9.12. The proposed flat whilst intended by the applicant for staff employed by the A5 unit, is not deemed necessary to restrict the occupation by condition. The use of the hot food takeaway would need to provide an acceptable impact in terms of neighbour amenity to this unit regardless of the occupant's relation to the business. Environmental Health did not recommend restricting this occupation. 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.

9.13. 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.

9.14. The provision of the extraction and ventilation equipment, whilst not a recommendation from the Environmental Health Team, would aid in ensuring the impact on the adjoining residential uses is minimised. Consequently, this is included as a recommended condition.

9.15. 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.

## **10. Heritage Issues**

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

10.2. 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".

10.3. 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.

10.4. 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.

10.5. In paragraph 17 of the NPPF it makes it clear that development should "conserve heritage assets 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 131 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 132 states "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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."

10.6. 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 internal partitioning for sound and fire separation between the shop front and Bell Hill House, false ceiling above shop front for sound and fire separation, and 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 separate advertisement consent and listed building consent.

10.7. The Heritage Team's initial response did not oppose the proposed change of use of the building from A1 to A5, however they did raise concerns regarding the internal work proposed. MSDC's Heritage Officer advised that the Heritage Statement submitted with this application is brief and did not include justification or mitigation for the proposed works, despite stating that the proposed works will affect the historic fabric or the character of the building. The Heritage Statement also failed to assess the significance of the listed building, and falls below the requirements of paragraph 128 of the NPPF. For example, whilst the building is timber framed, it is unclear whether the frame is expressed internally, whether the frame is lath and plastered, or if modern plasterboard has been installed on the walls or ceilings. This information should have been included in the Heritage Statement, and depending how the rooms are internally finished, the level of harm which the fire lining may cause to the character of the building may differ. This needed to be clarified.

10.8. A Listed Building Justification Statement ('Statement') was submitted on the 1<sup>st</sup> December 2017 to justify and clarify the extent of works to be undertaken.

10.9. Firstly, the Statement identifies that the existing shop and back office on the ground floor and the first-floor dressing room and en-suite bathroom on the first floor (part of Bell Hill House) are part of the historic building. The listing description describes this area as a 17<sup>th</sup> Century service addition with shop; ground floor early 19<sup>th</sup> Century bowed shop front with a central two-thirds glazed door, flanking 12-light windows, panelled jambs and a fascia board, first floor 2-light glazing bar casements, attached to rear a 1 storey C17 service outbuilding. This service addition is attached to the 16<sup>th</sup> Century core (Bell Hill House). The existing ground floor and first floor residential accommodation of Bell Hill Cottage is an annexe built in the 1980s. As such the extraction equipment and flue project through the floor and roof of the modern extension and will not remove any historic fabric.

10.10. On the first- floor level, secondary fire lining is to be affixed on to the external rear wall of the 17<sup>th</sup> Century service addition which forms an internal wall with the extension built in the 1980s and is used as residential storage. The Statement clarifies that there is no historic fabric visible as the facing material is modern plasterboard and skim. As such this has no negative impact on the historic building.

10.11. On the ground floor, the party wall with the neighbouring house is historic oak-framed, wattle and daub wall to the front Shop room. This offers sub-standard separation from one property to the next. It is proposed to upgrade this area with British Gypsum Gyproc independent lining – 30mm continuous cavity air gap; independent 47x89mm SW studs or Gyproc 70 metal stud system; 50mm Gypglass medium density lining batts between studs; 15mm Wallboard; all junctions sealed; gypsum plaster finish.

10.12. The historic wall will be retained, and the lining will not touch the original wall, as a gap to the existing wall is required to make the sound-proofing work. This lining will be fully reversible, this is deemed to be the most appropriate method, as it provides a better degree of separation with the adjacent residential dwelling.

10.13. It is also noted in the Statement that the shop fittings largely hid this original party wall. Photographs of the shop when it was in operation have been provided within the Statement.

10.14. It is also proposed to add an additional level of ceiling to provide sound insulation and fire separation to the shop area. This would be a Gypliner Universal metal stud system. This system would be reversible and if removed any fixing points on the ceiling can be filled and made good. The secondary ceiling can be installed to follow the existing contours of the historic ceiling, retaining the uneven appearance and the single beam which is visible within the ceiling will remain exposed. The plaster finish will mean no noticeable difference from the existing plastered ceiling, except it will be approximately 50-75mm below.

10.15. The purpose of the new stud wall and ceiling is to be able to retain the original fabric in situ. The historic building can be re-exposed at any point in the future whilst providing a suitably compliant building which would provide better sound-proofing to the adjacent residential use. The Statement states that the fixtures are something which would be required regardless of the type of occupant of the shop. It should be noted that for building regulations a shop and a hot food takeaway fall within the same use. Agreement for the change from the shop to hot food takeaway will not require agreement with Building Control. The change of use of the residential to the flue room and storage room will.

10.16. Further correspondence was received from the Council's Heritage Consultant; Tim Murphy following the submission of this information. Tim advised that the acoustic solution will obscure the original internal wall which includes exposed timbers. This will cause some harm to the aesthetic value of the building.

10.17. Given the extent of previous fittings in the shop, only a small section of timber which was painted white was expressed. Whilst the sound proofing will conceal this section of timber the level of impact is not considered to be a significant impact. Sound insulation by an independent lining is considered to be the most appropriate approach as it will ensure the commercial use of this unit will not cause an unacceptable impact on the adjoining neighbours in terms of noise disturbance but also does not remove or affix to the historic fabric. The benefit of bringing a vacant commercial unit into use outweighs this limited impact on the heritage asset and would not harm the significance of the heritage asset



10.18. The Heritage Consultant also advised that the soundproofing of the ceiling has potential to cause harm and that insufficient information has been provided by the applicant pertaining to the date of the ceiling fabric or the manner in which the proposed suspended ceiling would be attached. As such the Heritage Consultant is unable assess the level of harm to the fabric.

10.19. The Heritage Consultant advises that the principal of the application and change of use is acceptable. However, the Consultant recommends investigations are undertaken to ascertain the age/significance of the ceiling fabric and also find if less intrusive acoustic/soundproofing solutions are available.

10.20. Following this response from the Heritage Consultant, details were submitted by the applicant's agent on the 02 January 2018 providing details of the ceiling. The front section of the existing shop is lath and plaster which is likely to have been installed at the same time as the shop front (early Victorian). The insulating ceiling will be mounted on metal suspension system fixed through the lath and plaster onto timber joists.

10.21. Further information was received on the 10 January 2018 providing a plan of the ceiling system. This identifies 60 connections made through the existing ceiling into the joists above (refer to specification details in background papers- Table 3; Diagram 2). To reduce harm to the existing plaster pilot holes will be drilled first to prevent any damage to the historic ceiling, when the framing system is screwed through.

10.22. The sound proofing and insulation measures would impact on the historic fabric in terms of inserting 60 screws into the timber joist of the ceiling installed in the early Victorian century. Furthermore, the false ceiling will also conceal this historic ceiling which does contribute to the significance of the building in terms of its Victorian alterations and the insertion of the shopfront.

10.23. 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.

10.24. The application does not identify alternative methods of sound-proofing which may have less of an impact than the one proposed. Alternative methods would involve insulating between the joists of the ceiling and floor. To do this would either mean removing the ceiling which would result in the removal of all the historic fabric. Alternatively, insulation could be installed by lifting the original floorboards above. This would require the approval of the adjoining neighbour (Bell Hill House) who has a flying freehold above this part of the shop. The lifting of the original floorboards may in itself lead to damage and alteration in the floor above.

10.25. As such, the Planning Authority must determine the acceptability of the sound proofing measure proposed. The false ceiling to be installed will retain the bowed ceiling and will give the appearance of lath and plaster. The central exposed beam will remain exposed. As such, the visual alteration will be that the ceiling is lower by approximately 50-75mm. The false ceiling is therefore not deemed to detract from the architectural quality of the heritage asset and the timber frame will remain largely intact.

10.26. Given the extent of fixtures which obscured the original walls when the premises were occupied as a shop, that the internal works will allow for protection of the historic fabric, there will be no loss of historic fabric (other than the insertion of screws); 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.

10.27. Officer's consider the information submitted addresses the Heritage concerns regarding the impact and significance of the building. The works are not deemed to harm the significance or importance of the historical building and are reversible.

10.28. 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.

10.29. The Heritage Team have been consulted following the submission of the additional information in January 2018 and their response will be reported to Members as a Late Paper or verbal update at Committee.

## **11. Details Of Financial Benefits / Implications (S155 Housing and Planning Act 2016)**

11.1. The development will lead to;

- Business Rates and Council Tax payments

These considerations are not held to be material to the recommendation made on this application, nor its decision.

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## **PART FOUR – CONCLUSION**

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### **12. Statement Required By Article 35 Of The Town And Country Planning (Development Management Procedure) Order 2015.**

12.1. When determining planning applications, The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising.

12.2. In this case the Officer has liaised with the applicant's agents regarding Heritage, building regulations and noise issues. The Officer has also sought further guidance from SCC Highways.

### **13. Identification of any Legal Implications and/or Equality Implications (The Equalities Act 2012)**

13.1. There are no known legal implications derived from the determination of this application.

13.2. The application has been considered in respect of the current development plan policies and relevant planning legislation. Other legislation including the following has been considered in respect of the proposed development.

### **14. Planning Balance**

14.1. 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.

14.2. 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.

14.3. 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.

14.4. 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.

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

14.5. 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 14 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.

14.6 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.

14.7 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 paragraphs 19 of the NPPF.

14.8 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.

14.9 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. Furthermore, whilst the restrictions in footnote 9 of the NPPF include impacts on heritage assets, for the reasons explained above none of these policies indicate that development should be restricted.

## **RECOMMENDATION**

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

- Time limit
- Approved Plans
- Implementation of sound proofing measures as per drawing 4
- Grease and Carbon filters and noise attenuators are installed as per details submitted
- Ventilation and extraction equipment to be agreed prior to first use
- Hours of operation- 11am to 10pm Monday- Sundays
- Flue to be painted black
- Any other Heritage Conditions as agreed with the applicant (to be discussed at Committee)