

DELEGATED DECISION REPORT

APPLICATION NUMBER

190558

8 West Street, Leominster, Herefordshire, HR6 8ES

CASE OFFICER: Ms Elsie Morgan

DATE OF SITE VISIT: 12/03/19

**Relevant Development
Plan Policies:**

Herefordshire Local Plan – Core Strategy

Policies:

SS1 Presumption in favour of sustainable development

SD1 Sustainable design and energy efficient

MT1 Traffic management, highway safety and promoting active travel

E5 Town centres

E6 Primary shopping areas and primary and secondary shopping frontages

Leominster Neighbourhood Development Plan (made 22nd March 2019)

LANP6 Development in Leominster town centre

National Planning Policy Framework (NPPF)

Chapter 2 Achieving sustainable development

Chapter 7 Ensuring the vitality of town centres

Relevant Site History: None relevant

CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council	X		X		
Transportation	X		X		
Environmental Health (noise/smell)	X			X	
Press/ Site Notice	X				X
Local Member	X				

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

The proposed site is located on West Street, Leominster which is classed as a primary shopping frontage. It is one of a row of shops along the road.

The proposal involves the change of use of the current A1 retail shop to A5 take away food establishment.

Representations:

Parish Council – No objection

Transportation – No objection

Environmental Health (noise/smell) – Susannah Burrage

“My comments are with regard to potential noise and nuisance issues that might arise from development.

Following my site visit in April and the additional information supplied by the applicant in relation to the proposed commercial kitchen extract exhaust ventilation system please be advised that our department has no objections to this change of use proposal on noise and nuisance grounds.

To safeguard the amenity of neighbouring residents I recommend restrictions on the hours of trading such that the premises must not trade after 11.00pm Monday to Saturday and 10:00 on Sundays.”

Press/Site Notice –

Mr Webb-Davies – Objection

“I live in the flat above the empty shop at 8 West Street and feel that myself and my families life would be disrupted hugely if this was permitted to go ahead.

From what I can see on the plans, it looks like the main cooking appliances will be located right underneath the main bedroom of the flat, making sleeping harder with the increased heat and noise. How much noise does the extraction system generate How much disruption will be caused by the building work and access to the area where the extraction system will be located will be accross the roof of the flat I work early morning shifts, my wife is a light sleeper (we both work during the week and weekends) and I also have a child. What are the proposed opening / closing times for the purposed takeaway. Will consideration be taken that most late night weekend customers will probably have been out have a few drinks before going to this shop, thus making them more vocal than usual. West Street already suffers from general drunken behaviour. This could be seriously detrimental to myself and my family if it were allowed to proceed.”

Mr Ogolu – Objection

“I wish to object to the application. I have referred to the Herefordshire Council Local Plan Core Strategy 2015 and to the Leominster Area Neighbourhood Plan 2019 and I have identified the following policies which affect this application;-

Policy E5 of the Core Strategy - The proposed changed of use affects the primary function of West Street as a shopping destination.

Policy E6 of the Core Strategy - States that the overall proportion of non-retail use should not exceed 25% in primary shopping frontage.

Note 5.2.36 States that overall emphasis on retail trading should be retained.

LANP6 refers also to the need for retail development to ensure the vitality and viability of Leominster town centre.

Therefore I object to the change of use as the retail frontage of West Street will be reduced thus affecting prospective and potential use of another retail outlet taking the place of the previous business that occupied that property. There would also be an increase in noise and smell pollution as fans would be required to take away smells. The balance of non-retail premises would be increased due to the size of the shop frontage in question, I would query the proportion of non-retail use in West Street as a result of the proposed change of use."

Ms Virginie – Objection

"I wish to object to the application. The change of use will reduce the amount of retail frontage on West Street. There would also be an increase in noise and smell pollution as fans would be required to take away smells. There would be too many non-retail premises in West Street as a result of the proposed change of use. I have looked at the Herefordshire Local Plan Core Strategy and the Leominster NDP; the proposed change of use will affect the primary function of West Street as a shopping destination. I would refer you to Policies E5 and E6 of the Core Strategy and to LANP6 of the Leominster NDP

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Ms Stocker – Objection

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Mr Kaya – Objection

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Mr Pasha – Objection

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Local Member – Updated via email 18th June. Cllr is happy for determination to be made under delegated powers.

Pre-application discussion: None

Constraints:

Listed Building Grade II
Conservation Area
SSSI Impact Zone

Appraisal:

Policy context and Principle of Development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the made Leominster Neighbourhood Development Plan (LNDP). At this time the policies in the LNDP can be afforded full weight as planning consideration. The National Planning Policy Framework 2019 is a significant material consideration.

The proposal involves a change of use and as such there are no design conflicts with local distinctiveness. The sole external change is the introduction of a ventilation duct to the rear of the building. This would be screened from the street by the roof of the building, therefore there would be no impact upon the appearance of the historic town centre. As such, with regards to design the proposal complies with policies E5, LD1 and LD4 of the CS and LANP6 of the NDP.

The prior use class was A1 and the proposed takeaway use class is A5, therefore planning permission is needed in this instance as this class movement is not permitted. The focus in this instance is the impact upon the town centre’s vitality and amenity of local residents.

As confirmed by the Transportation Officers lack of objection, there is no conflict with policy MT1. As this is an area of commerce with predetermined networks for pedestrians and vehicles, there will not be a considerable increase in highway requirement. Any minor increase there may be can be accommodated through existing provision.

With regard to the objections, the Core Strategy policy E5 addresses the two key issues within this application – the primary function of shopping within a town centre and the appropriate scale and design for the heritage area. It is considered that the introduction of an A5 takeaway establishment would not impede the primary function of the wider Leominster town centre as an area for shopping. As the site is currently vacant, and has been since October 2017, the introduction of a business would aid the vitality of the town centre as discussed by Chapter 7 of the NPPF and policy LANP6 of the NDP which encourages sympathetic re-use of existing premises.

Furthermore, policy E6 of the CS seeks to protect the primary and secondary shopping frontages stating:

“Proposals for uses within Classes A2-A5 (non-retail) in ground floor premises in primary and secondary shopping frontages will be permitted where they proposed use will not result in:

- 1. A continuous frontage of more than two non-retail units; and the overall proportion of non-retail uses exceeding 25% in primary shopping frontages and 50% in secondary shopping frontages”*

The immediate neighbours comprise of A1 use class shops, one of which is a model shop and the other is a predominantly A1 bakery. As such it can be confirmed that there would not be a continuous frontage of more than two non-retail units. When assessing the shop frontage along the street, there is a clear dominance of A1 use class units and it can be concluded that the approval of this application would not cause the proportion of non-retail uses to exceed 25% within the primary shopping area.

With regard to the objections received, the policies stated have been assessed in this report and the proposal has been found to be compliant with these. To address the concerns about residential amenity the condition suggested by the council's Environmental Health Officer regarding opening hours has been included which will safeguard the amenity of present and future residents in line with policy SD1 of the CS. It is also noted that the EHO has considered the potential for noise and odour nuisance associated with the proposed ventilation system and is satisfied that, on the basis of the information provided, the proposal will not cause unacceptable levels of harm such that the application should be refused.

In summary, the proposal will benefit the town centre as encouraged by policy E5 of the CS, LANP6 of the NDP and Chapter 7 of the NPPF. Making use of a currently vacant space enhances the vitality and viability of the town centre. This proposal would add to the variety of retail and commerce in Leominster centre. The proposal will not give rise to unacceptable levels of harm in terms of noise or odour and the application is accordingly recommended for approval.

RECOMMENDATION: **PERMIT** ☒ **REFUSE** ☐

CONDITION(S) & REASON(S) / REASON(S) FOR REFUSAL:

(please note any variations to standard conditions)

1. C01 Time limit for commencement
2. C06 Development in accordance with approved plans (Plans titled 'Existing and Proposed Plans' dated 18/01/19)
3. C55 Restriction on hours of opening (restaurants & hot food takeaways)
The use hereby permitted shall not be open to customers outside the hours of 8:00 to 23:00 Monday to Saturday and 8:00 to 22:00 Sundays.

Reason: To safeguard the amenities of the locality and to comply with the Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. Prior to the commencement of the use hereby permitted, a scheme for the provision of storage, prior to disposal, of refuse, crates, packing cases and all other waste materials shall be submitted to and be approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.

Reason: In the interests of amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, LANP6 of the Leominster Neighbourhood Development Plan and the National Planning Policy Framework.

Informatives

1. IP1
2. **This permission does not authorise the display of any advertisements on the site (including any shown on the plans**

accompanying the application). Separate application should be made to Herefordshire Council in accordance with the Town and Country Planning (Control of Advertisements)(England) Regulations 2007

EM

Signed:

Dated: 18/06/19

TEAM LEADER'S COMMENTS:

DECISION:

PERMIT

☒

REFUSE

☐

Signed:

AB.

..... Dated: 27/6/19