

## PLANNING COMMITTEE – 12 DECEMBER 2024

### **24/1514/RSP – Retrospective: Change of use from restaurant to mixed use Class (E)(a) (restaurant) and Sui Generis (drinking establishment), installation of new shop front and the creation of front terrace at 15 MONEY HILL PARADE, RICKMANSWORTH, WD3 7BE**

Parish: Batchworth Community Council  
Expiry of Statutory Period: 15.11.2024  
(Extension of time agreed to 19.12.2024)

Ward: Rickmansworth Town  
Case Officer: Tom Norris

Recommendation: That Retrospective Planning Permission be granted.

Reason for consideration by the Committee: The agent for the application is related to a member of staff.

To view all documents forming part of this application please go to the following website:  
<https://www3.threerivers.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SHU21TQFKS800>

#### **1. Relevant Planning History**

- 1.1 12/1452/FUL - Variation of Condition 2 pursuant to planning permission planning permission 08/0203/FUL to enable cafe to open between the hours of 08.00 and 22.00 everyday - 01.10.2012 – Permitted
- 1.2 11/2626/RSP - Part retrospective: New powder-coated aluminium shopfront to existing opening. Shopfront awning to existing opening. Painted render to shopfront area and flank elevation. 450mm x 450mm Cooker hood metal extract duct to flank elevation, terminated with a high velocity cowl [1000mm above pitched roof] - 02.02.2012 – Permitted
- 1.3 11/2624/ADV - Individual surface mounted non-illuminated letters [fascia sign] - 01.02.2012 – Permitted
- 1.4 11/1731/CLPD - Certificate of Lawful Proposed Development: - Proposed use of existing timber decking at the front of the property for table and chairs associated with the proposed cafe (use Class A3) - 10.10.2011 – Permitted
- 1.5 08/0203/FUL - Demolition of existing public convenience building and erection of two storey side and single storey rear extension to provide new cafe (Class A3) and three self-contained flats (Class C3) and extended restaurant (Class A3) - 03.04.2008 – Permitted
- 1.6 07/1652/FUL - Demolition of existing public convenience building and erection of two storey side and single storey rear extension to provide new cafe and three self-contained flats and extended restaurant - 12.10.2007 – Refused
- 1.7 07/0511/FUL - Demolition of existing public convenience building and erection of two storey side extension, two storey and single storey rear extensions incorporating extended restaurant/takeaway at ground floor, two x 2-bed flats at first floor and loft conversion to create a further 2-bed flat with 4 velux windows to front elevation and two dormer windows to rear elevation and front door with access to flats above - 08.05.2007 – Withdrawn
- 1.8 07/0071/FUL - Replacement shopfront, new access ramp, external air conditioning units and ducts, internal alterations and demolition of rear lean-to - 27.04.2007 – Permitted
- 1.9 07/0077/ADV - Advertisement Consent: Erection of 1 externally illuminated fascia sign and 1 illuminated projecting sign - 23.03.2007 – Permitted

- 1.10 06/1972/FUL - Change of use from restaurant (A3) to take away (A5) - 02.01.2007 – Permitted
- 1.11 05/0364/FUL - Variation of condition of 5 from planning permission 98/1039/8: to allow selling of hot food for consumption off the premises (take away) - 12.04.2005 – Withdrawn
- 1.12 99/02361/FUL - Variation of condition 2 of planning permission ref 98/1039 to extend opening times - 10.02.2000 – Refused
- 1.13 99/01451/FUL - Erection of conservatory - 26.07.1999 – Permitted
- 1.14 98/1039 - Change of use of ground floor from Class A1 (Shop) to A3(Food & Drink) Bistro - 04.03.1999 – Permitted
- 1.15 8/409/89 - Single storey rear extension and independent access to first floor flat via side door - 29.06.1989 – Permitted
- 1.16 8/6/89 - Part two-storey and part single-storey rear extension conversion of first and second floors to two flats and provision of independent access to flats - 16.02.1989 – Refused
- 1.17 8/721/74 - Change of use gem shop to brokers office - 04.02.1974 – Permitted

## **2. Site Description**

- 2.1 The application site is located on the northern side of Moneyhill Parade, Uxbridge Road, Mill End. The application site contains a commercial unit, which had a pre-existing lawful use as a restaurant, known as Thai Orchid, and a current use as a drinking establishment and restaurant, known as Pour Me. The establishment has operated in its current use for two years.
- 2.2 External alterations have been undertaken to the unit, including a new shopfront, signage, and enclosed seating area to the front. These are described in more detail in the following section.

## **3. Proposed Development**

- 3.1 This application seeks retrospective planning permission for the change of use from restaurant to mixed use Class (E)(a) (restaurant) and Sui Generis (drinking establishment), installation of new shop front and the creation of front terrace.
- 3.2 The proposed development involves external changes to the shopfront including the insertion of grey framed bifold doors and a new entrance door. New signage has been erected however this would be subject to separate advertisement consent. An enclosed seating area, with ramped access, has been erected to the front of the unit which measures 2.5m in depth, 5.5m in width, and has a height of 1.3m. The enclosure is painted grey to match the windows and signage. Minor internal alterations have been made including the relocation of the bar.

## **4. Consultee Responses**

- 4.1 Hertfordshire County Highways: No objection.

*Recommendation Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.*

## Comments

*The property is located on the Uxbridge Road, which is designated as a main distributor classified 'A' road subject to a speed limit of 30mph and highway maintainable at public expense. The property is part of the Moneyhill Parade of shops and commercial premises.*

### *Access and Parking*

*There is no new/altered vehicle access in relation to the proposals. There are no existing or proposed on-site parking spaces, which is considered to be acceptable by HCC as Highway Authority due to its location within an existing parade of shops and other commercial premises.*

*HCC as the Highway Authority's main concern would be any negative effect any lack of allocated vehicle parking would have on the free and safe flow of traffic along Uxbridge Road. Following consideration of the relatively sustainable location, existing parking restrictions and nature of the use as part of an existing commercial and retail parade, it is unlikely that any effects would be significant enough to recommend refusal from a highway point of view.*

*The applicant is reminded that Three Rivers District Council (TRDC) is the planning authority for the would ultimately need to be satisfied with the level (or lack thereof) parking.*

*The seating area and pedestrian access ramp are not located on land which is considered to be part of the highway maintainable at public expense. There is considered to be a sufficient width of footway remaining fronting the site to enable safe and free access for pedestrians and users of the adjacent bus stop.*

### *Conclusion*

*HCC as Highway Authority has considered that the application would not (and does not) have an unreasonable impact on the safety and operation of the nearest highway, particularly when taking into consideration its sustainable location. Therefore, HCC has no objections to the granting of planning permission.*

#### 4.2 Environmental Health Officer: No objection.

*There is no objection to the proposed development. We also don't appear to have had any complaints against this premises.*

#### 4.3 Batchworth Community Council: No objection.

*BCC has discussed and noted this application.*

#### 4.4 National Grid (Gas): No response received.

## 5. Neighbour Consultation

### 5.1 Site/Press Notice:

- Site notice not required.
- Press notice not required.

### 5.2 No. consulted: 17

### 5.3 Number of responses received: 0

## 6. Relevant Local and National Policies

## 6.1 Legislation

6.1.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38(6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.1.2 The Localism Act received Royal Assent on 15 November 2011. The Growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

6.1.3 The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

6.1.4 Environment Act 2021.

## 6.2 Policy & Guidance

### *National Planning Policy Framework and National Planning Practice Guidance*

6.2.1 In December 2023 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

6.2.2 The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits unless there is a clear reason for refusing the development (harm to a protected area).

### *The Three Rivers Local Development Plan*

6.2.3 The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

6.2.4 The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP2, CP1, CP6, CP7, CP9, CP10 and CP12.

6.2.5 The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM6, DM9, DM10, DM13 and Appendices 4 and 5.

6.2.6 The Site Allocations Local Development Document (LDD) was adopted in 2014. Relevant policies include Policy SA4.

## 6.3 Other

6.3.1 The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

## 7. **Analysis**

## 7.1 Principle of Development

- 7.1.1 The application site is within the Key Centre of Mill End. Policy PSP2 of the Core Strategy advises that development will maintain and enhance primary and secondary shopping frontages. Policy SA4 of the Site Allocations LDD states that Identified Local Centres and Local Shops will be protected and uses complementary to the Local Centre and Local Shops will be encouraged. Policy CP7 of the Core Strategy is also relevant and states that proposals for new town centre and shopping development will take into account the appropriateness of the type and scale of development in relation to the centre and its role, function and character and catchment area.
- 7.1.2 The Site Allocations LDD identifies Moneyhill Parade as a Local Centre and states that uses complementary to the Local Centre and Local Shops will be encouraged.
- 7.1.3 Changes to the Use Classes Order now allows a greater degree of flexibility amongst typical high street uses that now broadly all fall under Class E. The changes to the use classes order which are aimed at creating vibrant, mixed-use centres by allowing businesses greater freedom to change to a broader range of compatible uses. It is considered that the proposed bar and restaurant use would be compatible with the local parade and the proposed use would not have a significant or detrimental impact compared with the existing lawful use, as a restaurant.
- 7.1.4 In summary, the proposed development is acceptable in accordance with Policies PSP2 and CP7 of the Core Strategy (adopted October 2011) and Policy SA4 of the Site Allocations Document.

## 7.2 Highways & Parking

- 7.2.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out parking standards.
- 7.2.2 Hertfordshire Highways were consulted on the proposed development and raised no objection to the development and any potential conflict between the enclosed seating area, pedestrians, and nearby bus stop.
- 7.2.3 The application site does not benefit from any customer parking. The existing and proposed use would generate the same parking demand for restaurant/drinking establishment use. It is not considered that the development results in parking harm, given the sustainability of the location.
- 7.2.4 In summary, the proposed development is acceptable in accordance with Policy CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies document (adopted July 2013).

## 7.3 Impact upon Character and Street Scene

- 7.3.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy states that development should 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'.
- 7.3.2 It is considered that the proposed use would be compatible with the existing range of uses in the vicinity and is not considered to be out of character or harmful to the area. It is located

within an area with other similar establishments nearby. It is therefore not considered that the proposal is incongruous in relation to other uses within the parade.

7.3.3 It is not considered that the shopfront alterations result in harm to the character of the area. The small, enclosed seating area is deemed to be acceptable and is not prominent within the street, particularly when read adjacent to the neighbouring unit at Dolce Caffè, which has a much larger enclosed protruding frontage.

7.3.4 In summary, it is not considered that the proposed development would result in harm to the character and appearance of the area and the proposal is therefore considered acceptable in accordance with Policies CP1 and CP12 of the Core Strategy (2011).

#### 7.4 Impact on Neighbours

7.4.1 Policy CP12 of the Core Strategy states that the 'Council will expect all development proposals to protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM9 of the Development Management Policies LDD also states that planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development.

7.4.2 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'.

7.4.3 Policy DM9 of the Development Management Policies LDD stipulates that the Council will refuse planning permission where the development would give rise to polluting emissions including by reason of disturbance, noise, light or smell unless appropriate mitigation measures can be put in place and maintained.

7.4.4 The NPPF under states that, to help achieve economic growth, Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st Century. Consequently, there is a balance to be struck between supporting the commercial success of individual businesses and protecting the living conditions of residents within the surrounding area. This is emphasised by Policy CP1 of the Core Strategy (adopted October 2011) which seeks to ensure that all development contributes to the sustainability of the district, by balancing the need to sustain the vitality and viability of centres whilst safeguarding residential amenity.

7.4.5 The application site is located within Moneyhill Parade, which is a Local Centre, characterised as a relatively large parade of commercial premises either side of a main road, which includes other restaurants, bars, takeaways, shops, and services. It is not considered that the proposed noise levels would or has significantly increased from its pre-existing use and other similar premises within the vicinity of the application site. The Environmental Health Officer was verbally consulted on the application and raised no objection to the proposed development and stated that no complaints have been received since the current use has been operating.

7.4.6 It is noted on the application form that the premises is proposing to open between 12:00 to 23:30 Monday to Saturday and 12:00 to 22:00 on Sundays and Bank Holidays. The application site and proposal should be considered in conjunction with the immediately local context of similar establishments. Officers have had regard to other establishments operating within the Parade of which their permitted closing hours are as follows.

Address	Permission Reference	Use (Name)	Mon to Fri (Closing time)	Saturday (Closing time)	Sunday /Bank Holiday

					(Closing time)
16 Moneyhill Parade	12/1452/FUL	Dolce Caffè	22:00	22:00	18:00
14 Moneyhill Parade	95/0784	Kebab Centre	23:00	23:00	22:30
8 Moneyhill Parade	18/2493/FUL (19/0005/REF)	The Shish Meze Bar	23:00	23:00	23:00
141 Uxbridge Road	8/696/86	Curry Garden	00:00	00:00	22:00

7.4.7 Considering the existing hours of operation of similar premises locally, and recent permissions granted, it is considered that the proposed opening hours are acceptable. It would be reasonable to condition the opening hours to limit the disturbance to surrounding neighbour properties. The application site is located within an active parade consisting of shops and services which receive regular deliveries. Deliveries to the application site are acceptable but a condition is suggested to limit the hours for deliveries to the site between the hours of 09:00 to 20:00 Mondays to Saturdays and 09:00 to 13:00 on Sundays or Bank Holidays. It is also considered appropriate to separately control the use of the front outdoor terrace area to shut earlier to limit noise and disturbance to neighbouring properties. It is considered that 22:00 is a reasonable time to condition the use of the front terrace area to cease and the bifold doors be shut.

7.4.8 The pre-existing use of the unit was a restaurant therefore this application does not propose any new or alterations to extraction or ventilation equipment. The only minor internal change is the relocation of the bar to the rear part of the premises. A condition will be included for the development to be maintained in accordance with the details submitted.

7.4.9 Overall, subject to conditions, it is not considered that the proposed alterations would result in an adverse impact on the neighbouring residents and the development would be acceptable in accordance with Policy CP12 of the Core Strategy and Policy DM9 of the Development Management Policies LDD.

## 7.5 Trees

7.5.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features.' Policy DM6 of the Development Management Policies LDD advises that 'development proposals should demonstrate that existing trees, hedgerows, and woodlands will be safeguarded and managed during and after development in accordance with the relevant British Standard.

7.5.2 No trees are affected by the proposed development, and it is therefore acceptable in this regard.

## 7.6 Biodiversity

7.6.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.6.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected because of the application.

7.6.3 In summary, the proposed development is acceptable in accordance with Policy CP9 of the Core Strategy (adopted 2011) and Policy DM6 of the Development Management Policies document (adopted 2013).

## 7.7 Mandatory Biodiversity Net Gain

7.7.1 Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 sets out that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value..

7.7.2 Given that this application is retrospective, it is considered exempt as biodiversity net gain does not apply to retrospective applications made under Section 73A. The LPA consider that Mandatory BNG would not apply in this instance.

## 8. Recommendation

That RETROSPECTIVE PLANNING PERMISSION BE GRANTED subject to the following conditions:

C1 The development hereby permitted shall be permanently maintained in accordance with the following approved plans: V2899-1, V2899-2

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the locality and the residential amenity of neighbouring occupiers, in accordance with Policies PSP2, CP1, CP6, CP7, CP9, CP10 and CP12 of the Core Strategy (2011), Policies DM6, DM9, DM10, DM13 and Appendices 4 and 5 of the Development Management Policies LDD (2013), Policy SA4 of the Site Allocations LDD (2014), and the NPPF (2023).

C2 The use of the premises hereby permitted shall only be carried out between 08:00 hours to 23:30 hours Monday to Saturday and between 10:00 hours to 22:00 hours on Sundays and Bank Holidays.

Reason: To protect the amenities of occupiers of nearby residential dwellings in accordance with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD.

C3 The use of the front terrace area hereby permitted shall cease at 22:00, including shutting of the bifold doors.

Reason: To protect the amenities of occupiers of nearby residential dwellings in accordance with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD.

C4 Deliveries to the premises hereby permitted shall only be carried out between 09:00 hours to 20:00 hours Monday to Saturday and between 09:00 hours to 13:00 hours on Sundays and Bank Holidays.



Reason: To protect the amenities of occupiers of nearby residential dwellings in accordance with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD.

#### Informatives

- I1 This permission does not grant consent for any signage, and this would be subject to an application for advertisement consent.
- I2 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.