

APPLICATION REPORT - PA/341486/18

Planning Committee, 6 June, 2018

Registration Date: 23/03/2018
Ward: Shaw
Application Reference: PA/341486/18
Type of Application: Full Planning Permission

Proposal: Change of use from retail (Use class A1) to restaurant (Use class A3) and hot food takeaway (Use class A5) together with associated external mechanical extract ducting; infilling opening to existing single storey rear addition
Location: 73 Market Street, Shaw, OL2 8NP
Case Officer: Graeme Moore
Applicant Agent : Mr Pilkington
AJ COCKER ASSOCIATES

THE SITE

The property is an existing retail unit which is currently unoccupied on the junction with Market Street and Greenfield Lane. Previously the unit was a public house but has since been converted into three retail units. There is also a relatively recent addition in the form of a two storey rear extension.

THE PROPOSAL

A full planning application has been submitted for the change of use of the ground floor from the existing A1 use. The proposal will involve changes to the existing retail units to form a takeaway unit and a sit down restaurant area. The proposal also involves the installation of a flue to deal with the fumes and odours associated with the use. It should be noted that the proposal does not involve any changes to the existing flats located above the existing retail units.

PLANNING HISTORY

PA/336970/18 - 1) Change of use of first & second floor to 6 no. flats 2) Roof extension 3) Associated works. Granted 07/08/2015

ALLOCATION AND PLANNING GUIDANCE / POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the development plan unless material considerations indicate otherwise. This is re-iterated within paragraphs 12 and 210 of the NPPF.

The site is in an allocated 'Centre' within the Council's adopted Local Development Framework (LDF).

The following policies of the Council's LDF are relevant to the determination of this application:

Joint Core Strategy and Development Management Policies Development Plan Document adopted 9 November 2011 (the DPD)

Development Management Policies

Policy 9 Local Environment
Policy 15 Centres
Policy 20 Design

Supplementary Planning Guidance

Oldham Council – Vibrant Centres SPD.

National planning guidance

The National Planning Policy Framework (NPPF) and the accompanying technical guidance document.

The National Planning Practice Guidance (NPPG)

PUBLICITY AND REPRESENTATIONS

The application has been 'called in' for determination by the Planning Committee by ward Councillor Dave Murphy.

The application has been publicised on the Council's web-site, by neighbour notification and by site notice. One comment has been received, however this is based on concerns regarding competition with existing takeaway facilities and therefore cannot be considered a material consideration.

CONSULTATIONS

Highways Engineer - No objections.

Environmental Health - No objections subject to conditions in relation to the treatment of odours/fumes and waste storage facilities.

DETERMINING ISSUES

1. Principle of the development
2. Amenity issues – noise, dust odour
3. Access, servicing, parking and highway safety

ASSESSMENT

Principle of the development

DPD Policy 1 requires the efficient use of buildings to support and improve the vitality and viability of the borough's centres with a view to encouraging economic prosperity.

It is noted the proposed use is a form of retail and falls under the threshold of Policy 16 'Local Services and Facilities'. As such it is necessary to consider whether the proposal complies with the provisions of Policy 15 'Centres'.

Insofar as food, drink and night-time economy uses are concerned, the policy requires the Applicant to demonstrate a 'need' for the proposal having regard to the number of existing (and proposed) establishments in the area. It also requires that it contributes positively to the local environment (including experience for visitors and users of the area), has no detrimental impact on human health and well-being, amenity, traffic generation, highway safety, and that it contributes positively to the visual appearance of the area and promotes community safety and security.

Policy 15 'Centres' is supplemented by the guidance afforded by the Vibrant Centres SPD. The guidance document under separate 'matters' draws attention to identifying need and to assist in assessing late night openings and its cumulative effect with other similar uses to

the vitality and viability of the town centre. Matters 1 – 4 relate to criterion 'a' of Policy 15 and matters 5 – 11 address the remaining criteria.

Under Matter 1 of the SPD written guidance is provided on how the proposed development may support / identify a need which takes account of any existing uses and how it impacts upon the vitality and viability of the area in which it is located. In the context of this application no information has been submitted purporting a need for a hot food takeaway, such as it providing for a niche market.

Matter 2 has regard to the number of existing A5 uses in a given frontage. It requires that no more than 10% of any ground floor frontage shall consist of an A5 use. Given regard to the existing uses in the parade, it is considered that the proposed change of use would not result in more than 10% of the ground floor frontage being taken up by A5 uses and that it is considered that the proposal is not contrary to Matter 2 of the SPD.

Matter 3 is concerned with the clustering of hot food takeaways and states that the Council will ensure that no more than two A5 uses should be located adjacent each other and between individual groups of A5 uses, there shall be at least two non-A5 uses. This requirement is complied with in this instance.

Taking into account the application site, the proposal and the matters 1-4, Officers consider there are no concerns with the proposal in principle.

Amenity issues – noise, dust, odour

National guidance within paragraph 123 of the NPPF and policy 9 (Local Environment) of the Council's Joint DPD provides guidance on pollution control and the impact of development on health, environmental quality, and amenity.

Policy 9 aims to safeguard the users or occupiers of adjoining land or properties from the impacts likely to be associated with development proposals. Furthermore Policy 15 and Matters 5 - 7 of the SPD 'Vibrant Centres' are concerned with the impact of the opening hours, disposal of waste and litter and odour respectively.

It is noted that the site comprises of retail units and that there are residential properties located above the adjacent retail units on the other side of Market Street including the flats associated with the pub. However, considering the town centre location it is considered that there will no detrimental impacts in terms of amenity on adjacent properties, subject to the imposition of conditions in relation to any flues, bin storage and hours restricting the opening times to between 9am and 11pm.

Access, servicing, parking and highway safety

The area immediately outside the premises on Market Street does have parking restrictions, with the bay marked as 'loading only' between 7am and 6pm. However, there is sufficient parking located nearby to support both people stopping off to use the takeaway element and for people using the restaurant. It is therefore considered that there would be no issues with the proposal from a highway safety point of view and this is backed up by the comments from the Highways Engineer.

Therefore, in taking account of the documentation submitted, the scale and nature of the development, and the technical advice given by the Council's Highways Engineer, it is considered that the proposed use can be adequately accommodated on the local highway network, that there would be adequate car parking arrangements and that the proposal would not have any detrimental impacts upon pedestrian or highway safety. For these reasons the proposal is considered to be acceptable when assessed against policies 5 (Promoting Accessibility and Sustainable Transport Choices), 9 (Local Environment) and 20 (Design) of the DPD

Conclusion

Paragraph 197 of the NPPF states that 'in assessing and determining development

proposals, local planning authorities should apply the presumption in favour of sustainable development'.

The proposal has been fully assessed against national and local planning policy guidance. On balance, it is considered that the proposal is acceptable in principle and is acceptable in terms of the appearance and impact upon the visual amenity of this site and surrounding area. The proposal will have no detrimental impacts upon the environmental quality of this locality, or pedestrian and highway safety. The site can be adequately drained and will not give rise to flooding problems. The proposal, subject to the imposition of planning conditions, accords with the aforementioned policy guidance.

For the reasons set out in this report the proposal is considered to be acceptable when assessed against national and local planning policy and conditional approval of planning permission is recommended.

1. The development must be begun not later than the expiry of THREE years beginning with the date of this permission.

Reason - To comply with the provisions of the Town & Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be fully implemented in accordance with the plans received on 23/3/2018 which are referenced as follows:

P207-001/a;
JDQ336(1) and
JDQ336(2).

Reason - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.

3. No development shall take place unless and until details of facilities for the storage and removal of refuse and waste materials have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the hot food takeaway is brought into use.

Reason - To ensure that the use is not harmful to the amenity of occupiers of nearby residential properties.

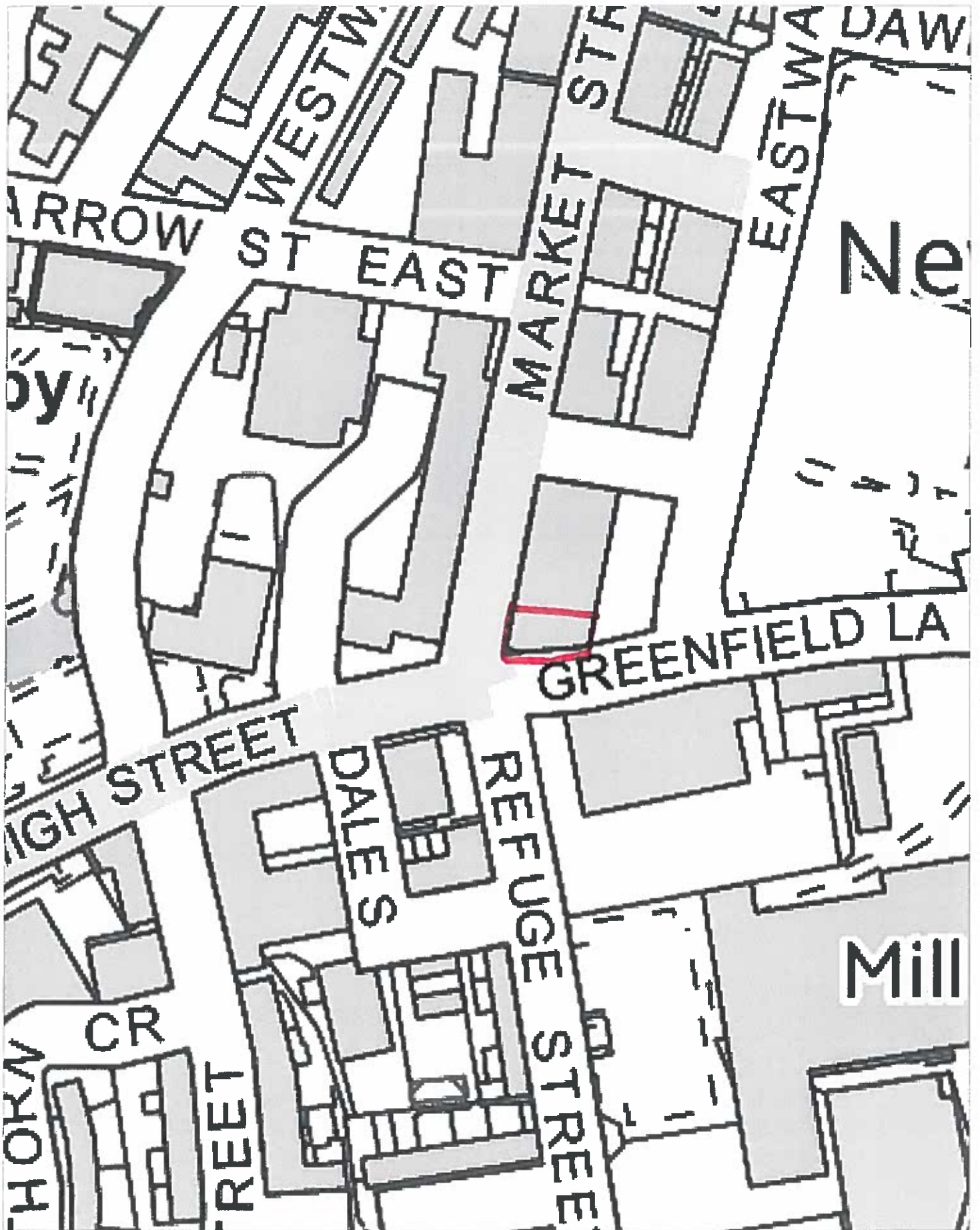
4. No development shall take place unless and until a scheme showing details of ventilation and fume extraction from the premises, the position and finish of any external flues and a programme of operation and equipment maintenance, in accordance with the manufacturer's recommendations has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed in its entirety before the use of the premises hereby permitted commences and thereafter it shall be retained, operated and maintained in accordance with the manufacturer's recommendations.

Reason - To protect the amenities of the occupiers of nearby properties.

5. The hot food takeaway and restaurant premises shall not be open for trade or business (including food preparation and deliveries) except between the hours of 9am and 11pm on any day.

Reason - To safeguard the amenity of occupiers of residential properties (including the first floor flats).

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