

Regeneration and Economic Development Department

APPLICATION NO: 21/00759/FUL

APPLICANT: TISA Property Ltd

WARD AFFECTED: Shevington

DEVELOPMENT: CHANGE OF USE FROM SUI GENERIS USE CLASS (PUBLIC HOUSE & HOT FOOD TAKEAWAY) TO USE CLASS E (RETAIL CONVENIENCE SHOP) TOGETHER WITH THE ERECTION OF 2.0M FENCING AND ACCESS GATES AND ASSOCIATED CAR PARKING

LOCATION OF SITE: Farmers Arms , Moorfield, Tower Hill, Kirkby, L33 1XD

KNOWSLEY LOCAL PLAN ALLOCATION –

Action Areas - Action Areas

Urban Greenspace and Educational Land

Primary Residential Development

RELEVANT POLICIES

KNOWSLEY LOCAL PLAN: CORE STRATEGY

CS2 - Development Principles

CS4 - Economy and Employment

CS6 - Town Centres and Retail Strategy

CS7 - Transport Networks

CS19 - Design Quality and Accessibility in New Development

SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT PLAN (ADOPTED JUNE 2006)

H5 - Development within Primarily Residential Areas

DQ2 - Security in the Built Environment

ENV2 - Noise and Vibration

TECHNICAL CONSULTATIONS:

Environmental Health (Knowsley Council) - Concerns with regards to the potential disturbance on the surrounding residents due to the noise associated with the activities from a retail convenience shop and the potential antisocial behaviour it could bring.

Highway Authority (Knowsley Council) - Objections but note how those objections could be overcome.

Merseyside Police - Concerns due to the high crime and ASB incidents in the area and the late-night opening plus the open space providing routes for criminals to escape the area.

NEIGHBOUR NOTIFICATION:

This application was publicised by letters sent to 33 households and by the display of a Site Notice.

There have been 3 letters of objection received, including from two Ward Members. The objections are on the following grounds: -

- The application indicates that the store would open early in the morning until 11pm at night. There is no need for a store to be open that late in the community
- Due to the store staying open until late this would encourage youths to congregate outside the store late at night which could potentially lead to anti-social behaviour.
- Alcohol sold at the shop would make the area even more prone to the gathering of youths and ASB.

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- The houses adjacent are within close proximity to the building. There is only a road in-between and with the opening hours, this would cause a lot of noise to the properties from both traffic and people.
- St Peter and Paul's School is near to the building. This would cause traffic congestion at peak school pick up and drop off times which are already busy times
- Litter would have an impact on St Peter and Pauls school as teachers have to conduct playground checks before children are allowed to play on the playground. This would also have an impact to the environment in the community.
- There is already a convenient store within a 2/3 minute walk of the building, therefore, another convenience store in the area is not needed.

With regard the last bullet-point above, the 'need' for the use is not a planning consideration and cannot be taken into account when determining a planning application.

ARTICLE 35

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason for refusal, allowing the applicant the opportunity to consider the harm caused and whether it can be remedied by a revision to the proposal.

The Local Planning Authority is willing to meet with the applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

ISSUES AND ASSESSMENT:

RELEVANT PLANNING HISTORY

13/00614/COU - CONTINUATION OF USE OF PART OF EXISTING PUBLIC HOUSE AS A HOT FOOD TAKEAWAY RESULTING IN A MIXED USE DEVELOPMENT OF PUBLIC HOUSE (USE CLASS A4) AND HOT FOOD TAKEAWAY & DELIVERY BUSINESS (USE CLASS A5). Granted - 26 February 2014.

20/00655/FUL - CHANGE OF USE OF PUBLIC HOUSE (USE CLASS SUI GENERIS) TO FORM PART CONVENIENCE STORE AND PART HOT FOOD TAKEAWAY (USE CLASS E / SUI GENERIS) TOGETHER WITH THE ERECTION OF A SINGLE STOREY REAR EXTENSION AND THE ERECTION OF A 2.1M HIGH WALL TO THE NORTH AND EAST BOUNDARY, INSTALLATION OF 2 NO. VEHICULAR ACCESS GATES AND THE CONSTRUCTION OF A NEW VEHICULAR ACCESS TO MOSSBOROUGH DRIVE. Refused - 4 February 2021.

21/00247/CLU - CERTIFICATE OF LAWFULNESS FOR THE USE OF THE BUILDING AS A MIXED-USE PUBLIC HOUSE AND HOT FOOD TAKEAWAY/DELIVERY BUSINESS (SUI GENERIS). Granted - 18 June 2021.

PROPOSAL

The planning application relates to the former Farmer's Arms PH, which has ceased trading as a public house. The building is vacant and boarded up and the subject of crime/anti-social behaviour incidents.

The PH is located towards the southern end of Moorfield adjacent the junction with Mossborough Drive in Tower Hill, Kirkby. The application site comprises the PH, with hardstanding areas between the highway and the building (both Moorfield and Mossborough Drive). The former car park area to the south west of the PH building does not form part of the application site (outlined blue on the submitted location plan).

The wider area is primarily residential in character, with housing opposite the site on both Moorfield and Mossborough Drive. Moorfield shopping parade is at the northern end of Moorfield near the junction with Shevington's Lane.

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The application seeks planning permission for a change of use of the building to retail convenience store (Use Class E) on the ground floor with residential accommodation above on the first floor. The current lawful planning use is a 'sui generis' use, of public house and hot food takeaway (with residential accommodation on the first floor).

The existing hot food takeaway area of the building, at the rear, would be used as a storeroom and one of the ladies W.C would be converted to an office, with the men's W.C converted to a mixed W.C. The other ladies W.C would be removed, with the area incorporated into the overall shop area. The counter area would be located at the rear of the shop, in the same location as the current pub bar. The two drinking areas would be dismantled to give one overall area for the shop.

It is also proposed to erect 2m high close boarded fencing from the rear corners of the building to the rear boundary of the site, and then along the rear boundary, to form an enclosed service yard. It is proposed to install 2 sets of access gates within the north-eastern and south-western lengths of fencing to allow delivery vehicles into and out of the yard area. Ordinarily, the fence/gates are permitted development. It is proposed to mark out 14 car parking spaces along the south-western boundary of the site, with three disabled persons parking to the front of the building. Some planting is also indicated along the south-western boundary, between the parking and the edge of the site, although no details are provided.

The shop is proposed to open to customers between 6.30am and 11pm, seven days a week, and the application states that there would be two full time members of staff, and four part-time staff.

POLICY CONSIDERATIONS

The application conflicts with Policies CS2, CS4, CS6, CS7 and CS19 of the Core Strategy and saved Policies H5, DQ2 and ENV2 of the UDP.

DESIGN, ACCESS, AND CRIME PREVENTION

The elevations would remain much as the existing building and in that respect, there would be little impact on the visual amenity of neighbouring properties or the wider area. Indeed, it can be contended that the proposal would improve the building and wider area's visual amenity as the building would be re-used and would no longer be boarded-up at the window openings.

The proposed works by themselves would not attract more crime and anti-social behaviour. However, the late-night opening is of concern with regard those issues and is discussed further in the report.

Therefore, the application conflicts with the National Planning Policy Framework, Policy CS19 of the Core Strategy and saved Policy H5 of the Knowsley Replacement UDP.

HIGHWAYS

Boundary Detail

At present there is a lack of information regarding the front boundary detail and confirmation is required regarding whether any boundary treatments are proposed along the front of the site facing the Moorfield (currently there is none proposed). If none are proposed, a low wall (or similar, of no more than 0.6m in height) would be required. This would restrict vehicles from crossing the footway to access/egress the site, whilst also providing protection to the public walking along the footway. Likewise, if a boundary detail was proposed which exceeded 0.6m height, this would need to be reduced to ensure that pedestrian visibility can be achieved. This is of particular importance considering the proximity of the primary school. Likewise, the same principles would need to be applied for any boundary treatments along Mossborough Drive. This requirement could be achieved through a planning condition (particularly given that a 1m high wall could otherwise be erected along these boundaries as permitted development).

Car Parking

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The plans provided are not correctly scaled; when utilising the scale bars provided, measurements are significantly under what are otherwise stated on the proposed site plan. It is noted that 2.4m x 4.8m parking bays are sought, however, it is encouraged that 2.5m x 5.0m parking bays are provided. A 6m aisle width is also required, which is indicated by dimension.

The geometries for the disabled parking spaces proposed are incorrect. These bays need to be provided with a minimum 2.4m width / 4.8m length (although 2.5m x 5.0m is encouraged). A 1.2m wide hatched area will also then need to be provided around the parking bay. The three disabled persons parking bays should be moved so that they are positioned adjacent to the Moorfield access to the site (replacing some of the already proposed parking spaces).

Parallel parking spaces would need to be provided in replacement of where the disabled bays are currently proposed. These parallel spaces would to be 6.0m in length and 2.4m wide. The maximum number of parallel spaces which can fit along this boundary would need to be provided.

Based on a floor area of 212sqm and parking standards of 1 space per 14sqm (former Use Class A1 - Retail), 15 parking spaces are required (including three disabled persons bays). Currently 17 spaces are sought.

These requirements could be achieved by planning condition.

Internal Movements

In the interests of reducing vehicle conflicts and maintaining the free flow of traffic within the site, the access/egress point to Mossborough Drive (next to the Moorfield junction) would need to be limited to access only. The service access would remain as proposed; however, bollards (or similar) would need to be provided (between the store and the footway/boundary treatments) to prevent members of the public vehicles from utilising this access. This could be achieved by planning condition.

Cycle Parking

Two covered and secured cycle parking spaces would need to be provided which could be achieved through a planning condition.

Vehicular Tracking

A service yard is proposed at the rear of the building. Swept path analysis for the largest vehicle likely to deliver to the rear of the premises would be required. The vehicle needs to be shown access to the service yard from Mossborough Drive, travelling through the car park and egressing to Moorfield. This has not been requested as the proposal is not supported. It is however recognised that such could be submitted which would likely be satisfactory.

Delivery and Service Plan

A 'Delivery and Service Plan' would be required to ensure that deliveries are outside of peak periods, including school drop off and pick up times and within acceptable times for the residential surroundings. This could be achieved through a planning condition.

Pedestrian Crossing

Given the neighbouring Primary School and the propensity of school children to be attracted towards shops, a tactile pedestrian crossing point will need to be provided across the Moorfield carriageway to tie in with natural pedestrian desire lines. This could be achieved by a legal agreement although such has not been sought and the application is not supported.

Therefore, whilst the application currently does not comply with Policies CS2, CS7 and CS19 of the Knowsley Core Strategy and saved Policy H5 of the Knowsley Replacement UDP the proposal could comply with those policies, subject to amendments and condition submission discharges. As such, it is considered that the proposal is satisfactory in principle with regard highway safety and parking issues.

RESIDENTIAL AMENITY

Noise and Disturbance

The area around the site has changed significantly in recent years and new houses have been erected and occupied since the pub closed. The proposed shop would be open early morning, right the way

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though too late at night. As such, it is unavoidable that noise issues would arise from customers using the shop (from customers themselves and from cars coming and going, car doors opening/ closing/ music from cars), delivery wagons, waste collection vehicles), which would severely impact on the neighbouring properties' amenity, particularly as there have been no late-night uses operating from the site since the new homes were occupied.

The new houses opposite the site are located almost immediately up to the edge of the footpath of what is currently a relatively quiet stretch of the road. Consequently, the noise disturbance associated with the proposed use would be particularly noticeable and harmful. Also, the significant likelihood of youths loitering outside the proposed shop attracted by its late-night opening, would generate unacceptable noise and disturbance for nearby residents.

The application therefore conflicts with Policies CS2 and CS19 of the Core Strategy and saved Policies H5 and ENV2 of the Knowsley Replacement UDP.

Crime and Anti-Social Behaviour (ASB)

Merseyside Police indicate that crime and anti-social behaviour levels in the immediate area within which the site is located are high. They note that the area experienced a slight fall in crime over the last 12 months compared to 2020 but remains an area with a high demand for policing due to crime and ASB. Merseyside Police highlight that it is one of the highest demand locations in Merseyside for ASB issues. For instance, the nearby Moorfield Centre has 78 reports of ASB recorded.

Merseyside Police note that the applicant has requested long opening hours (6.30am to 11pm) everyday and advise that this may cause concerns for residents. They further advise that the surrounding open land to the rear and side of the building continues to be utilised by offenders as an escape route from authorities.

Merseyside Police note that there is no indication of how the applicant intends to manage the shop and particularly the rear of the premises within the proposed fenced area.

Environmental Health also have concerns about the potential disturbance on the surrounding residents due to the noise associated with the activities from a retail convenience shop and the potential ASB it could bring.

Therefore, the application conflicts with Policies CS2 and CS19 of the Core Strategy and saved Policies H5 and DQ2 of the Knowsley Replacement UDP.

Lighting

Whilst the application has not indicated any lighting it is likely that at some point the applicant/store owner would wish to install security lighting due to the crime incidents in the area. Such lighting has the potential negatively impact on nearby residents, particularly those opposite, even with mitigation, given the proximity of homes to the site. However, such lighting may – depending on its form - require planning permission and could therefore be assessed separately.

Waste / Litter

Uses such as that proposed can lead to an increase in litter in an area. Whilst litter bins could be provided in the front of the site, litter usually occurs further from premises as the litter is discarded once the product is finished with by the purchaser. Increased litter has a negative effect on an area and detrimentally impacts on the visual and residential amenities of an area. Depending on type, increased litter can also lead to increased vermin such as rats in an area.

The application therefore conflicts with Policies CS2 and CS19 of the Core Strategy and saved Policy H5 of the Knowsley Replacement UDP.

First Floor Accommodation

Whilst the first floor would provide residential accommodation which the application notes is for the applicant and family, no details have been provided with regard on soundproofing measures that are in place already or that would be put in place should permission be granted. The accommodation would not be suitable for persons not involved with the shops due to the long hours / late night openings they would operate and the associated noise and disturbance arising.

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OTHER ISSUES

Sequential Test

The convenience store is a main town centre use and, therefore, locations of such should be looked at sequentially as noted in the NPPF and Policy CS4 and CS6 of the Core Strategy. A sequential test was submitted with the application, with Moorfield and Glovers Brow centres considered in the sequential test. This is reasonable given the type of use proposed and taking into account the accommodation requirements. The sequential test has considered:

- availability (is a site available or soon to be available);
- suitability (is a site suitable for the use proposed, floorspace required), and;
- viability (no significant investment required above that expected).

The results of the sequential test examination were that there is one premises, known as Clarkes Boutique, currently vacant in Glovers Brow Local Centre, whilst there are no vacancies in the Moorfield Centre. The report notes that Clarkes Boutique is a constrained site with a retail floor space of 45m², which would not provide sufficient floor space for the proposed use to operate in an economically viable position, therefore, it was discounted.

The sequential test is accepted (albeit that the length of time the building has been vacant is longer than the 24 months noted in the sequential test report, as it was vacant for some time before the pandemic, which is 24 months in March 2022).

Regeneration, Viability and Vitality

Policy CS6 also notes that convenience retail stores in centres other than Kirkby town centre shall address the potential need for new or restructured local centres to support regeneration priorities in Tower Hill. However, the site is not in a new or local centre and there is a local parade area close by which would be impacted upon, and this would have a detrimental impact on regeneration of the area contrary to the policy.

Therefore, the application conflicts with Policy CS6 of the Core Strategy.

CONCLUSION

The proposal would bring the vacant boarded up building back into use. However, the proposal would have significant detrimental impacts on residents and the area in general in terms of significant increased noise and disturbance from the late-night opening and the comings and goings of customers, cars etc. and from the likelihood of youths loitering outside the proposed shop. In addition, there is significant potential for crime and ASB issues given the high incidence of this in the area as confirmed by Merseyside Police, including numbers of incidents at Moorfields Centre. As such, the application conflicts with planning policies and is recommended for refusal.

RECOMMENDATION:

That Planning Permission be refused for the following reason(s): -

- 1) The proposed change of use of the premises to a convenience store (Class E) relates to vacant premises which is in close proximity to residential properties on Moorfield and Mossborough Drive. Due to the proximity of the premises to these residential properties and the operational hours proposed the scheme would unacceptably harm the living conditions of the occupiers of those dwellings with regard to noise and disturbance, particularly during the early morning and the evening. The proposal therefore conflicts with the National Planning Policy Framework; Policies SD1, CS2 and CS19 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policies H5 and ENV2 of the Knowsley Replacement Unitary Development Plan adopted June 2006.
- 2) The proposed use would likely lead to increased crime and anti-social behaviour incidents in an area already blighted by high numbers of such incidents. This would

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impact severely on the wellbeing of local residents and the residential amenities that they could reasonably expect to enjoy in their dwellings and the wider area. The application therefore conflicts with the National Planning Policy Framework, Policies CS2 and CS19 of the Knowsley Local Plan Core Strategy and saved Policies H5 and DQ2 of the Knowsley Replacement Unitary Development Plan adopted June 2006.

Lee Osborne

23 December 2021

Mark Cawood

23 December 2021

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