

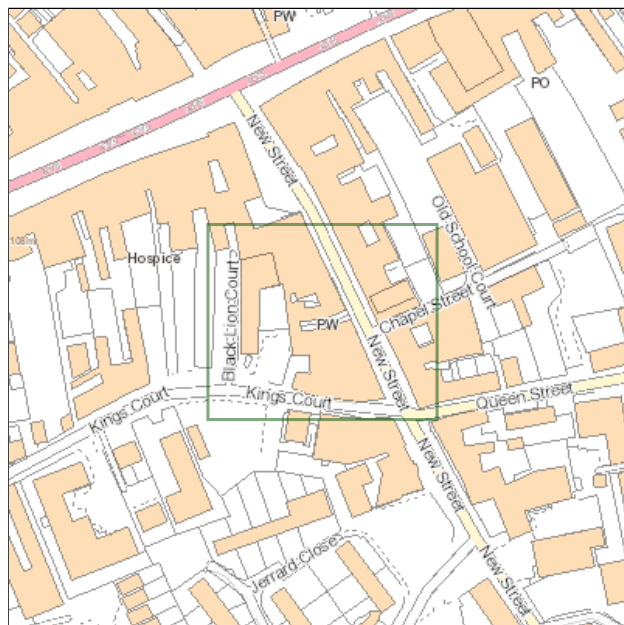
Ward Honiton St Michaels

Reference 21/1618/FUL

Applicant Mr Ayhan Adsoy

Location 19 New Street Honiton EX14 1HA

Proposal Change of use of ground floor from a mixed use comprising retail (class A1) and hot food takeaway (class A5) to use as a hot food takeaway (class A5) and installation of external extraction flue (revised proposal to 20/1959/FUL)



RECOMMENDATION: Approval with conditions



		Committee Date: 13th April 2022
Honiton St Michaels (Honiton)	21/1618/FUL	Target Date: 24.08.2021
Applicant:	Mr Ayhan Adsoy	
Location:	19 New Street Honiton	
Proposal:	Change of use of ground floor from a mixed use comprising retail (class E(a)) and hot food takeaway (Sui Generis) to use as a hot food takeaway (Sui Generis) and installation of external extraction flue (revised proposal to 20/1959/FUL)	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The application is before Committee as the officer recommendation is contrary to the view of a Ward Member who raises concerns relating to impacts of noise and odour on residential amenity.

The site is within the designated Town Centre of Honiton, within the Primary Shopping Frontage and it is also within the Conservation Area. The site is bounded by both residential and business premises.

Permission 20/1959/FUL was granted on 8th April 2021 for the change of use of the ground floor to a hot food take-away with conditions attached but the permission was not lawfully implemented. This application, revised since its initial submission, is essentially a repeat application for the change of use to a hot-food takeaway previously granted, but with a different external flue arrangement to that previously approved. The proposed opening hours are the same as those controlled by condition 4 in permission 20/1959/FUL. The application is supported by technical information including a Noise Impact Assessment and Kitchen Extraction System Report.

The principle of the change of use has been established through the recent grant of permission 20/1959/FUL. It is not considered that the proposal would impact on the viability or viability of the town centre or the retail function and character of the shopping frontage.

Following consultation on the revised proposal and supporting documents the Environmental Health Officer has indicated that the proposal raises no environmental health concerns. A condition is recommended to be imposed to

control the opening hours and secure adherence to the proposed and recommended odour and noise mitigation measures. The Conservation Officer raises no concerns and the Town Council and a Ward Member support the proposal. A neighbour objects raising concerns about unauthorised parking associated with the site and noise, however the Highway Authority raise no objection and noise could be controlled to acceptable levels though the recommended conditions.

The proposal is considered acceptable in all relevant respects and it is recommended that the application be approved subject to the conditions listed in the report.

CONSULTATIONS

Local Consultations

Parish/Town Council

22/7/21

Honiton Town Council OBJECTS to the application for the following reasons:

- o The proposed time extension would adversely impact on the amenity of neighbouring residents.
- o Honiton Town Council supports the request by the Environmental Health Officer for a noise assessment report to assess the impact on the amenity of the neighbouring residents.
- o Honiton Town Council would also query what impact the proposed extraction system would have on the amenity of neighbouring residents in relation to odours produced.

Parish/Town Council (Following consultation on a revised proposal and additional supporting information received 18/2/22)

9/3/22

Honiton Town Council SUPPORTS the application.

Honiton St Michaels - Cllr Mike Allen

18/2/22

The property is located within the Honiton Conservation Area. The Honiton Character Appraisal refers to No's 15 to 31 New Street as an important building group and No's 15 to 23 are included on the Local List as being of architectural and historic interest and in particular their group value, the character and appearance of which it's important to retain.

The property is a thriving business which is apparently impacting on the amenity of residents from both noise and smell of cooking which needs due consideration

Concerns have been expressed by residents and Environmental health plus the town Council which means, I believe, that this application should be considered at Planning Committee.

I cannot support this application until the Planning Committee considers noise and pollution checks

Further Comments:
No further comments.

Honiton St Michaels - Cllr Phil Twiss

18/2/22

This application builds on a similar one at this location, where the current business operating is similar in style of operation to others in New Street and it would be unreasonable to refuse on those grounds. As I understand it, this is more about regularising extending opening hours to match those of other businesses in the immediate vicinity, (and High Street), as well as significant improvements to the extraction system.

I support this application, subject to the opinion of the EDDC Environmental Health Team that the proposal are acceptable in terms of the effectiveness of the extraction system, in terms of noise, and reduction of odours emitted during the process of cooking of food, and that the principle of this type of development at the site is already established, and operating as such.

(Having been notified of the comment of the Environmental Health Team dated 3/3/22 and of the planning history at the site, Cllr Twiss confirmed his support for the proposal on 15/3/22)

Further comments:
Nothing further to add to the recommendation to approve thanks.

Honiton St Michaels - Cllr Jake Bonetta

Thanks for this. Nothing to add except a personal interest in that the applicant is a former work colleague of mine.

Technical Consultations

Conservation

28/7/21

CONSULTATION REPLY TO PLANNINGEAST TEAM
PLANNING APPLICATION AFFECTING LOCALLY LISTED BUILDING AND
CONSERVATION AREA

ADDRESS: 19 New Street, Honiton
GRADE: Local List APPLICATION NO: 21/1618/FUL
CONSERVATION AREA: Honiton
PROPOSAL: Installation of an extraction system and time extension.
BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

The property is two storey, rendered with slate roof. The fenestration has been altered and includes a mixture of historic and more recent multi-paned windows at both ground and first floor including 1no. sash window at first floor and a shopfront within a C19 bay sash window on the ground floor.

Its significance derives from its age, the use of traditional materials and its contribution to the streetscene of this secondary commercial street in Honiton town centre. There

are several examples of good bay windows, original frontages and shopfronts which together provide a pleasing appearance.

The property is located within the Honiton Conservation Area. The Character Appraisal refers to No's 15 to 31 New Street as an important building group and No's 15 to 23 are included on the Local List as being of architectural and historic interest and in particular their group value, the character and appearance of which it's important to retain.

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

A previous permission was recently approved under 20/1959/FUL for a similar proposal. This application is twofold and relates to the installation of an external extraction flue and a change to the opening times. Detailed comments are set out below:

Extractor Flue: it appears that the flue has already been installed. Located at the rear it is a relatively tall and prominent system. However, whilst taller than that previously approved, it is still below the height of the original submission which was amended during the course of the previous application under 20/1959/FUL.

Opening Times: no comments:

Conclusion: In terms of heritage issues, the flue will have minimal impact on the rear of this locally listed building and the Honiton Conservation Area. No further comments.

PROVISIONAL RECOMMENDATION - PROPOSAL ACCEPTABLE

Further comments following consultation on a revised proposal and additional supporting information received 18/2/22)

10/3/22

No further comments to make.

Environmental Health

12/7/21

I have considered the application and I do have Environmental Health concerns in relation to noise. Further information is required.

This application involves the introduction of external fixed plant/equipment (extraction system) in close proximity to existing noise sensitive dwellings. I am concerned that the noise impact from the plant/equipment has not been fully assessed and therefore, it is not known if further noise mitigation is required. This information is required before I can make a recommendation.

I recommend that the applicant undertakes a noise assessment.

A BS4142:2014+A1:2019 assessment should be undertaken in order to determine the likely noise impact from the fixed plant & equipment on nearby noise sensitive dwellings when measured against the current background sound levels.

The purpose of the noise assessment is to determine whether or not residents are likely to be adversely affected by noise from the extraction system. This information will help the decision making process for the proposed extraction system. If the noise assessment highlights noise as an issue, mitigation will need to be considered and assessed in order to determine if it is at an appropriate level to achieve both satisfactory internal and external (amenity areas) noise levels.

Further comments following consultation on a revised proposal and additional supporting information received 18/2/22)
3/3/22

I have reviewed the newly submitted documentation for this application and do not anticipate any environmental health concerns.

Other Representations

One received supporting the proposal, but no points are made.

One received objecting raising the following concerns, and a further letter from the same person re-iterating the following concerns:

- Unauthorised parking on New Street by delivery drivers associated with the take-away causing a hazard;
- Noise of car doors of delivery drivers and customers associated with the take-away, disturbing residents;
- Longer opening hours would exacerbate the above;
- Bins are left on the pavement, leading to inconvenience;
- Impacts associated with the extraction outlet, which is below a bedroom window.

PLANNING HISTORY

(Only the last 21 years history is listed below)

Reference	Description	Decision	Date
20/1959/FUL	Change of use of ground floor from a mixed use comprising retail (class A1) and hot food takeaway (class A5) to use as a hot food takeaway (class A5) and installation of external extraction flue.	Approved	8/4/21
06/2531/FUL	Internal alterations plus rear single storey extension. First floor change of use from A1 (Shop) to A3 (Restaurant) with related operating times	Approved	6/11/06.

06/0672/COU	Change of use of ground floor from shop (class A1) to mixed shop and hot food takeaway (class A5).	Approved	2/5/06
01/P1749	Hanging Sign	Approved	31/10/01
01/P1441	Change Of Use Back To Retail - New Entrance Door & Rear Conservatory	Approved	5/9/01

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies (LP)
Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

EN14 (Control of Pollution)

E9 (Town Centre Vitality and Shopping Areas)

E10 (Primary Shopping Frontages)

TC2 (Accessibility of New Development)

Neighbourhood Plan

No draft Neighbourhood Plan is available for Honiton.

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The application site is a terraced 2 storey building immediately fronting pedestrian pavement on New Street, Honiton. It is bounded by adjoining dwellings to north, northwest and south with others beyond, within a densely developed area. Various business premises are also adjacent to and in the vicinity of the site.

The site is within Built Up Area Boundary of Honiton within the Conservation Area. The application building, together with No's 15 to 23, is included on the Local List as being of architectural and historic interest, in particular due to the group value of the buildings (Conservation Officer comments provide full description of historic character

and architectural merit). The site is within a designated Town Centre Area and is part of the designated Primary Shopping Frontage.

Proposal

The proposal has been amended since it was initially submitted, with the most recent plans and documents having been received on 18/2/22. The amendment was made because during the determination it came to light that the previous permission had not been lawfully implemented. The amended application is essentially a repeat application of a recently granted permission (20/1959/FUL, approved on 8/4/2021) but with a different external flue arrangement at the rear of the property. The proposed opening hours have also been amended since the application was initially submitted to be the same as those previously approved though permission 20/1959/FUL, with opening to customers and collection/delivery from the premises restricted to between 15:00 and 21:00 on any day.

The application is supported by revised technical information relating to noise and odour control. The application title has also been amended to reflect the change to the Use Class categories which came into effect on 1 September 2020 i.e. a retail use was previously class A1 but is now within class E(a) and hot food takeaway was previously class A5, but is now a Sui Generis use (in a class of its own).

ANALYSIS

The main issues for consideration are the principle of the proposal, impact on town centre viability/vitality and employment, impact on amenity and impact on heritage assets.

Principle and town centre vitality and viability

The principle of the change of use of the ground floor was previously considered acceptable through the recent grant of permission 20/1959/FUL on 8/4/21 on the basis of compliance with policy E9. In granting that permission, the Local Planning Authority took into account the location of the site within the Built Up Area Boundary and the impact of the proposal on the viability and vitality of the town centre. This impact was not considered to be significant considering that there was an existing permission for a mixed retail and take-away use at the site (albeit restricted to specified foods) which did not restrict the area of the building that could be used as a take-away and also considering the small scale of the premises.

For these same reasons it is not considered that the proposal would have a significant impact on retail function or character of the area. In considering the last application it was noted that the takeaway business use would employ staff, such that the use would ensure that the site would continue to contribute to economic activity within the area and the provision of employment opportunities. There having been no change to the Local Plan or other relevant Policy or Guidance since the previous grant of permission it is considered that the change of use remains acceptable in principle and that refusal of permission would be unjustified.

Heritage Assets

The site is within the conservation area and relates to a locally listed building and the external flue could potentially have an adverse impact on the building's character and appearance and that of the wider conservation area. The flue proposed in this application is slightly taller than that approved through permission 20/1959/FUL however the Conservation Officer has taken this into account and raises no concerns with regard to its impact. The proposal is therefore considered compliant with LP Policies D1, EN9 and EN10.

Amenity

The operation of the hot food take away has the potential to generate odour from cooking and noise from the operation of extraction equipment and also in connection with customers visiting the site. Due to the close proximity of neighbouring dwellings and businesses adequate control of these impacts is important in order to ensure that neighbouring amenity is not adversely affected. The Environmental Health Officer has assessed the proposal including the supporting Noise Impact Assessment and details relating to the proposed extraction system and has raised no concerns with regard to odour or noise impacts. Compliance with these and hours of operation restrictions can be conditioned.

The impact of the proposal on the first floor use of the building has also been considered, given that the take-away use relates the ground floor of the building only. A dwelling use at the first floor would be a sensitive use, however there is no extant permission for this. It is considered unlikely that permitted development rights would allow a change of use of the first floor to a dwelling, given the size and layout of the building and the particular constraints of the permitted development rights which otherwise allow a change of use to a dwelling from class E. Even if those rights could be applied, 'Prior Approval' from the Local Planning Authority would be required and this determination process would in turn have to take into account the impact of noise from commercial premises on the intended occupiers of the building. Due to this control it is considered that no undue impact on amenity would be likely to arise in relation to the first floor.

It is recommended that the plans and details relating to noise and odour control measures be secured by a planning condition along with a hours of use condition restricting the use to between 15.00-21.00pm.

Other issues

An objector raises a concern in relation to unauthorised street parking in connection with the take-away however the Highway Authority have not raised any concerns with regard to highway safety matters and it is noted that off road parking is available near the site at two public car parks nearby.

A concern is also raised regarding bins on the pedestrian pavement beside the site. This has been brought to the attention of the relevant Environmental Health team who advise commercial premises on bin storage. The submitted plans indicate bin storage space at the rear of the property so suitable space for bins is considered to be provided for at the site and this issue is not considered further in this report.

CONCLUSION

Although the site is small scale, the proposed use would provide employment opportunities and economic activity and thus the site would continue to provide a degree of social and economic benefit. The use would not cause undue harm to town centre viability, vitality or the retail character or function of the area nor is it considered likely to harm highway safety. With conditional controls in place to protect heritage assets and local amenity, it is considered that the proposal would be acceptable with regard to these social and environmental issues. Overall the proposal is considered to represent sustainable development.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Notwithstanding any reference to opening hours in the Noise Impact Assessment by Nova Acoustics (dated received by the Local Planning Authority on 18/2/22) the take-away use hereby permitted shall not be open to customers, or for the collection or delivery of hot food from the premises, except between 15:00 and 21:00 on any day. (Reason: To protect adjoining occupiers from excessive noise in accordance with Policies D1 Design and Local Distinctiveness and EN14 Control of Pollution, of the East Devon local Plan).
4. The noise and odour control measures and related recommendations described in the Noise Impact Assessment by Nova Acoustics and the Kitchen Extraction System Report & Odour Risk Assessment "Pizza Plus+Kebabs-Burgers" (dated received by the Local Planning Authority on 18/2/22) and illustrated on the approved plans and the plans listed below (also dated received on 19/2/22) shall be adhered to in full for the duration of the hot food takeaway use hereby approved:
Existing and proposed Floor Plans EP001
Kitchen Extraction System PP003.
(Reason: To avoid odours and noise detrimental to the amenities of local residents and other adjoining occupiers and in accordance with Policy EN14 Control of Pollution of the East Devon Local Plan.)

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email cil@eastdevon.gov.uk.

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

EP002 :	Combined Plans	18.02.22
Elevations		
EP001	Combined Plans	18.02.22
	Location Plan	18.02.22
	Block Plan	18.02.22

List of Background Papers

Application file, consultations and policy documents referred to in the report.