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## Item No: 7.1

**Application:** 192565

**Applicant:** Mr Chosky

**Agent:** Mr Malcolm Inkster

**Proposal:** The application is only for a change of use of the ground floor of a building - from A4 to D1. The proposed activities will vary, but will include social and educational purposes, and place of worship. More details are included in the supporting Planning Statement.

**Location:** The Beehive Public House, 113 Bromley Road, Colchester, CO4 3JG

**Ward:** Greenstead

**Officer:** Benjy Firth

**Recommendation:** Approval

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee due to the level of public interest shown in the application. Approximately two hundred comments have been received from members of the public, with a relatively even split between those supporting the application and those opposing it.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are whether the proposed change of use is policy compliant and whether any material harm would arise.
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site is located to the east of central Colchester, sited beyond and adjacent to the settlement boundary. The site contains a two-storey building, associated outbuildings and a parking area. The site has historically and until recently, been utilised as a Public House.

## **4.0 Description of the Proposal**

- 4.1 This application seeks permission to change the use of the ground floor of the main building from A4 (drinking establishments) to use class D1(non-residential institutions) The proposed use would include activities such as social and educational purposes, and as a place of worship. The only proposed physical alterations to the building are internal.

## **5.0 Land Use Allocation**

- 5.1 The site does not benefit from any specific land use allocation.

## **6.0 Relevant Planning History**

- 6.1 None applicable.

## **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
SD3 - Community Facilities  
UR2 - Built Design and Character  
TA1 - Accessibility and Changing Travel Behaviour  
ENV1 - Environment

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity  
DP4 Community Facilities  
DP10 Tourism, Leisure and Culture  
DP19 Parking Standards

- 7.4 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

EPOA Vehicle Parking Standards

## **8.0 Consultations**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 The Council's Archaeological Officer made the following comments:

No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

8.3 The Council's Environment Protection Team made the following comments:

Environmental Protection is concerned that the noise generated within the ground floor is likely to cause a nuisance to the residence above. It is highly unlikely that sound insulation could remedy the matter. Therefore, for the first floor to be used for residential purposes this must be ancillary to the ground floor use.

Should permission be granted Environmental Protection would recommend the following conditions;

Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: Not at all

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

Restriction of Amplified Sound:

No amplified sound is permitted outside.

All windows and doors to the outside must be kept closed other than for access and egress whilst events involving amplified sound are taking place inside the premises.

Reason: To ensure that the change of use hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise and disturbance from amplified noise, as there is insufficient information within the submitted application.

ZGG - Site Boundary Noise Levels

Prior to the installation of plant, such as air conditioning, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of [or boundaries near to] noise-sensitive premises. The assessment shall have been made in accordance with the

current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

8.4 Tendring District Council did not offer any comment on the application.

8.5 The Highway Authority initially issued a holding objection, requesting more information regarding on-site parking. Following the submission of this information the following comments were received:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

The development shall not be occupied until such time as the car parking area, indicated on the amended plans, including any spaces for the mobility impaired has been marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

Immediately the site becomes available for use the proposed off-street parking strategy as described in the Note on Parking dated 28 November 2019 shall be adopted and implemented in full accord with these details and remain in effect and use by the sites occupiers thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

8.6 The HSE made the following comments:

The proposed development site which you have identified does not currently lie within the consultation distance (CD) of a major hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site. However, should there be a delay submitting a planning application for the proposed development on this site, you may wish to approach HSE again to ensure that there have been no changes to CDs in this area in the intervening period.

8.7 Cadent Gas requested additional time to make comment.

## **9.0 Parish Council Response**

9.1 None received.

## **10.0 Representations from Notified Parties**

10.1 The application resulted in approximately two hundred comments from members of the public. The full text of all the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- Contribution to the community
- Access to the general public
- Loss of community facility
- Increased traffic
- Increased noise
- Highway safety
- Hours of operation
- Detriment to character of the area
- Impacts on biodiversity and wildlife
- Pollution and sustainability

## **11.0 Parking Provision**

11.1 Adopted policy requires 17 spaces for the proposed use and 26 spaces are provided within the submitted scheme.

## **12.0 Accessibility**

12.1 The existing building is relatively accessible and could accommodate adaptation to increase its accessibility were this to be required by future users.

## **13.0 Open Space Provisions**

13.1 The proposal does not include, nor is it required by policy to make any open space provisions.

## **14.0 Air Quality**

14.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

## **15.0 Planning Obligations**

15.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

## 16.0 Report

- 16.1 This application seeks permission for the change of use of the ground floor of the building from an A4 drinking establishment to a D1 non-residential institution. Both the existing and proposed uses classify as community facilities. Both adopted and emerging Local Plan Policy are consistent with the National Planning Policy Framework (NPPF) in supporting the retention and enhancement of existing community facilities and encouraging multi-purpose community facilities that can provide a range of services and facilities to the community at one accessible location. Additionally, adopted policy supports the retention and enhancement of existing community facilities, where these positively contribute to the quality of local community life and the maintenance of sustainable communities in accordance with other policy requirements.
- 16.2 Policy requirements make no differentiation between various types of community facilities, but rather refer to community sites being retained for community uses. On the other hand, the NPPF does give added weight to the retention of community facilities that contribute to the community's ability to meet its day-to-day needs. However, this is not relevant in this instance.
- 16.3 In light of the above and on the basis that the proposal seeks the retention of the site for community uses, albeit of a different type. This would not constitute the loss of a community site and at worst could be considered the replacement of one community facility with another, resulting in no net loss of community facilities. The proposed change of use is therefore considered acceptable in principle.
- 16.4 The proposed change of use involves no physical alterations at the site outside of the building itself. Additionally, attendance at the site has never been restricted, in terms of numbers, nor would it be appropriate to restrict this moving forward. As such the scale or use of the site would continue to be restricted by the building's physical limitations. As a result, it is not considered that the potential scale of use differs significantly between the existing and proposed use.
- 16.5 In the absence of any external physical alterations or in increase in scale the proposal is considered acceptable, subject to appropriate conditions, in terms of it's design, impacts on public amenity, impacts on wildlife and biodiversity, and impacts on residential amenity. In this regard, limitations would be applied to any approval concerning hours of operation, amplified sound and outside activity.
- 16.6 The Council's Environmental Team have raised concern regarding the continued residential use of the upper floor of the building and how it will relate to the proposed use. A condition will be applied to any approval in this regard as per the comments made requiring the space to be used on an ancillary basis.

- 16.7 The proposal provides parking numbers in excess of the adopted minimum standard. It is also worth noting, policy requires more parking for an A4 use than a D1 use. Additionally, the Highway Authority are satisfied with the access and parking arrangements. In light of this, and the above consideration of scale of use, it is not considered that the proposal would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposed change of use is therefore acceptable in this regard.
- 16.8 The degree of public access to the site has been raised within numerous consultation responses. However, neither the existing or proposed uses place any form of restriction on public access to the site. This would be a matter determined by the owner/operator of the site and does not fall within the scope of planning legislation.
- 16.9 The loss of the pub has also featured heavily within consultation response. In this regard, as previously stated adopted policy makes no differentiation between various community uses. Additionally, the pub could change uses under permitted development rights prescribed by Schedule 2, Part 3, Classes A and B of the Town and Country Planning (General Permitted Development) Order. Lastly in this regard, it is noted that the Localism Act provided communities with the opportunity to protect local assets via Neighbourhood Plans and having sites listed as Assets of Community Value. In the 8 years since the Localism Act and up to this point, the community has not sought to safeguard the pub via either of these mechanisms.
- 16.10 The contrast in the locations of commentators supporting and opposing the application and likewise existing and potential users of the site has also featured heavily within consultation responses. In this regard, access to the site has not historically been limited to those residing within a certain distance of the site, nor would it be appropriate or possible to restrict this via planning legislation. The lack of restriction in this regard is also pertinent in considering any potential increase in pollution resulting from the proposed change of use. Additionally, the term 'Local' is relative and in planning terms it is worth noting that the Local Planning Authority has jurisdiction over the entire borough and the Local Plan sets policy for the entire borough. As such, it is considered appropriate to apply a similar definition to the term 'local community'.

## **17.0 Conclusion**

- 17.1 To summarise, the proposed change of use is compliant with adopted national and local policy, and in the absence of any demonstrable harm is considered acceptable.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

### **1. Time Limit for Full Permissions**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### **2. Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers P01, P05, P10 and P20F. Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

### **3. Limits to Hours of Work**

No demolition or construction work shall take outside of the following times;

Weekdays: 8am – 6pm

Saturdays: 8am – 1pm

Sundays and Bank Holidays: None at all.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

### **4. Car Parking**

The development shall not be occupied until such time as the car parking area, indicated on the amended plans, including any spaces for the mobility impaired has been marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

### **5. Car Parking**

Immediately the site becomes available for use the proposed off-street parking strategy as described in the Note on Parking dated 28 November 2019 shall be adopted and implemented in full accord with these details and remain in effect and use by the sites occupiers thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

## **6. Residential Use**

The upper floor of the building shall only be occupied for residential purposes ancillary to the use hereby approved.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use.

## **7. External Noise**

No amplified sound shall be played outside of the building.

Reason: To ensure that the change of use hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise and disturbance from amplified noise, as there is insufficient information within the submitted application.

## **8. Internal Noise**

All windows and doors to the outside must be kept closed other than for access and egress whilst events involving amplified sound are taking place inside the premises.

Reason: To ensure that the change of use hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise and disturbance from amplified noise, as there is insufficient information within the submitted application.

## **9. Site Boundary Noise Levels**

Prior to the installation of plant, such as air conditioning, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of [or boundaries near to] noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

## **10. \*Restriction of Hours of Operation\***

The use hereby permitted shall not operate outside of the following times:

Weekdays: 8am -11pm

Saturdays: 8am – 11pm

Sundays and Public Holidays: 8am – 11pm

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

## **19.0      Informatives**

19.1      The following informatives are also recommended:

### **ZT0 – Advisory Note on Construction & Demolition**

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.