

APPLICATION NO.	P17/S3925/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	15.11.2017
PARISH	DIDCOT
WARD MEMBER(S)	Alan Thompson Ian Snowdon
APPLICANT	Mrs Alex Bas
SITE	32-34 Wantage Road Didcot, OX11 0BT
PROPOSAL	Retrospective application for the retention of extraction flue on the eastern side of the building and the retention of an external refrigeration unit covered in wood.
OFFICER	Jeremy Peter

1.0 INTRODUCTION

- 1.1 The application is referred to Planning Committee for a decision because the recommendation to approve planning permission differs from the views of the Town Council who object to the application.
- 1.2 The application site comprises a double fronted, detached 2-storey building currently in use as a Turkish restaurant on the ground floor with residential above, located on the north side of Wantage Road, Didcot, within a small parade of shops and other commercial outlets.
- 1.3 The site is identified on the Ordnance Survey Extract **attached** at Appendix 1.

2.0 PROPOSAL

- 2.1 This is a retrospective application that has been submitted following an enforcement investigation. The metal aluminium extraction flue is sited on the eastern side of the building, extending out from the ground floor, travelling horizontally for 3.75m before extending upwards so that it finishes 1.3m above the eaves of the building.
- 2.2 The timber plywood covered refrigeration unit is located to the rear (north of the building). It measures 2.4 x 3m and finished in a flat roof at a height of 2.5m.
- 2.3 The plans accompanying the application are **attached** at Appendix 2 to this report. All the plans and representations can be viewed on the Council's website www.southoxon.gov.uk under the planning application reference number.

3.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

- 3.1 The Town Council objects and recommends refusal on the grounds of odour and noise. Recommends a full assessment of the suitability of the items installed to be undertaken. Supports the recommendations of the environmental health officer on limitation to hours of operation of the fans. Also agrees on recommended means by environmental health officer to reduce likelihood of odour becoming a nuisance but has fears that these recommendations may be unenforceable, resulting in an elevated risk of odours for neighbouring properties.

Health & Housing - Env. Protection Team – Initially concerned that the addition of a commercial kitchen extraction unit may cause adverse impacts regarding noise and odour to occupants of nearby residential properties. Suggested condition applied

restricting hours of operation for the business from 10.00 - 22.00 Monday to Sunday and informative referring to Defra “Guidance on the Control of Odour and Noise from Commercial Exhaust Systems” (January 2005).

Following clarification to the Env. Team that the use was lawful and the business hours could not be retrospectively be controlled, suggested conditions were amended to control the operating hours of the extraction system from 0.900 – 23.00 Monday to Sunday; and for the noise emanating from the equipment to not exceed the background noise level at the boundary of the premises in accordance with BS4142 (2014) “Method for rating industrial and commercial sound” with the measurement location being 1m from the façade of the nearest noise receptor.

There were 3 written neighbour objections received, 2 of which were from the same person:

- Extraction system is close to bedroom window and generates loud noise and smells that means no longer can open window. Audible noise even with window closed.
- Using extraction fan after 23.00 hours.
- Polluting environment.
- Extractor fan is visually obtrusive and an eyesore.
- Not clear from technical specification supplied for the extractor what applies.
- Refrigeration unit is also loud and noisy.
- Remove extractor fan and use existing extraction fan at rear instead.
- Development erected without consideration of proximity to residential dwelling above adjacent bookshop.
- Applicant knew he was flouting planning laws.
- Development involves structural work which the applicant denies.
- Issues with information provided on application form.
- Bathroom window omitted on application drawings.

Local Councillor – make clear to applicant the need for planning permission in advance but accepts need to help new business. Suggest conditions applied to any consent that would mean extractor fan painted a different colour that blends and refrigeration building to be made to look more like a shed with timber roof or similar.

4.0 **RELEVANT PLANNING HISTORY**

4.1 [SE17/575](#) - (enforcement investigation that led to current application)
Installation of chimney/flue to side elevation of business premises without planning permission.

[WE06/146](#) - (12/02/2007)

Restaurant opening in breach of condition 5 of P05/W1219 (hours of opening)

[WE06/081](#) - (12/02/2007)

Development not in accordance with planning permission P05/W1219 (extractor flue)

[WE06/082](#) - (12/02/2007)

Development not in accordance with planning permission P05/W1219 (flat roof instead of sloping roof)

5.0 **POLICY & GUIDANCE**

5.1 South Oxfordshire Core Strategy (SOCS) Policies

Policy CS1 – Presumption in favour of sustainable development

Policy CSQ3 – Design

Saved Policies of the South Oxfordshire Local Plan 2011

Policy G2 – Protection of the environment

Policy EP1 – Prevention of polluting emissions

Policy EP2 – Noise and vibrations

Policy D1 – Good design and local distinctiveness.

5.2 Neighbourhood Plan policies: None

5.3 Supplementary Planning Guidance/Documents

South Oxfordshire Design Guide 2016 (SODG 2016)

5.4 National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

6.0 **PLANNING CONSIDERATIONS**

6.1 The restaurant use is lawful. The only operational development up for consideration is the erection of the flue and the structure housing the refrigeration unit in the rear.

There main issues to consider in the determination of these are,

- the impact on the character and appearance of the area
- the impact on neighbouring residential amenity in respect of noise and odour, and
- Other issues

6.2 **Impact on the character and appearance of the area** . Dealing first with the impact on character and appearance, the extractor fan is highly visible in the street given its position on the east side of the building and the aluminium metal appearance. However, it is considered that changing the colour of the extractor flue to black would help mitigate its impact and would be in keeping with the black signage on the building. This could be undertaken by the imposition of a suitably worded condition.

6.3 In respect of the structure housing the refrigeration units, the timber plywood panel finish clearly stands out. This is also considered harmful when viewed from different public vantage points. However, again, it is considered that covering the shed in some form of timber cladding more akin to that of a shed would help ameliorate its impact and help it blend in better with area. Again, this could be dealt with by an appropriately worded condition requiring details of a suitable timber finish to be submitted and approved within 1 month of the grant of any approval.

6.4 Consequently, subject to the conditions mentioned above, it is considered that the proposal would comply with SOCS policy CSQ3 and Saved Local Plan Policies G2 and D1 which seek to ensure new development offers good design as well as protects and promotes local distinctiveness.

6.5 **Impact on neighbouring residential amenity in respect of noise and odour.**

In respect of impact on neighbours by virtue of noise and smells, the Health and Housing Environmental Protection Team has not objected on these matters based on the supporting documentation supplied by the applicant. In respect of odours, any emissions would be regulated by the Environmental Protection Act 1990. They have

asked that conditions be imposed as regards the hours of operation for the extractor flue and to ensure that it is operated within appropriate noise levels. This combined with the 4m distance away from the adjacent neighbouring property at No. 30 is considered sufficient to ensure that no significant adverse impact would occur to the neighbouring amenity of the occupiers of that property, including the residential flat above. The proposal would, therefore comply with Saved Policies EP1 and EP2 which requires development not to cause significant harmful impacts to neighbouring occupiers

- 6.6 **Other issues.** As regards the other matters raised by objectors, according to the applicant the rear extractor flue is still in use for cooking food at the rear of the restaurant. The extractor flue, the subject of this application, is needed to deal with cooking at the front which involves barbecuing food on a charcoal grill. In any event, each application is treated on its own merits and this case, with suitable conditions, the proposal is considered acceptable.
- 6.7 As for the discrepancies on the application form, the proposal is about operational development on the land. Planning permission, if granted, runs with the land. Consequently, it is considered that the matters raised are not significant to not warrant determination nor alter the suggested recommendation.

7.0 **CONCLUSION**

- 7.1 This retrospective application to retain an extraction flue to the side of the building at No.32 – 34 as well as the wooden structure to the rear that houses a refrigeration unit is considered acceptable, subject to the imposition of appropriate conditions. The proposal would therefore comply with relevant local plan policy and there are no material considerations to indicate otherwise.

8.0 **RECOMMENDATION**

- 8.1 **That grant planning permission is granted subject to the following conditions:**

1. **Approved plans.**
2. **The external walls of the external refrigeration structure hereby permitted shall be clad in horizontally aligned timber boarding in accordance with details of the type of boarding and colour finish, which shall first have been submitted to and approved in writing by the Local Planning Authority. The details shall be submitted for approval within one month from the date of planning permission. The details shall be carried out within 2 months of the date of approval.**
3. **The external flue hereby permitted shall be painted in a colour in accordance with details which shall be first have been submitted to and approved in writing by the Local Planning Authority. The details shall be submitted for approval within one month from the date of planning permission. The approved details shall be carried out within 2 months of the date of approval.**
4. **The hours of operation for the extraction system shall be restricted to 0.900-23.00 Monday to Sunday.**
5. **All plant, machinery and equipment including the extraction system to be used by reason of granting of this permission shall be so installed, maintained and operated so as to ensure that the rating noise level from the equipment does not exceed the background noise level at the boundary of the premises. Measurement and rating of noise for the purposes of this condition shall be in accordance with BS4142 (2014) " Method for rating industrial and commercial sound". The measurement location shall be 1 metre from the facade of the nearest noise sensitive receptor. In the event of unacceptable noise or vibration being caused by the installed plant, machinery and equipment, the applicant or persons responsible shall**

investigate and undertake works to resolve the problem to the satisfaction of the local planning authority.

Informative:

It is recommended that the applicant refer to the Defra 'Guidance on the Control of Odour and Noise from Commercial Exhaust Systems' (January 2005) for further information.

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