

<b>APPLICATION NO</b>	<b>PA/2014/0104</b>
<b>APPLICANT</b>	Mr Behnam, Heydari-Begvand
<b>DEVELOPMENT</b>	Planning permission to change the use from A1 to A5 (hot food takeaway) and to extend the existing premises
<b>LOCATION</b>	Opposite to 24 High Street, Epworth
<b>PARISH</b>	<b>EPWORTH</b>
<b>WARD</b>	Axholme Central
<b>CASE OFFICER</b>	Scott Jackson
<b>SUMMARY RECOMMENDATION</b>	<b>Grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Concerns raised by Epworth Town Council

## **POLICIES**

**National Planning Policy Framework:** Paragraph 23 states that local planning authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. In addition it states that local planning authorities should promote competitive town centres that provide customer choice and a diverse retail offer.

At paragraph 63 the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 137 states that proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

**North Lincolnshire Local Plan:** Policies S5, S9, T1, T2, T19, DS1, DS11, HE2 and HE5 apply.

**North Lincolnshire Core Strategy:** Policies CS1, CS2, CS5, CS6, CS14 and CS17 apply.

## **CONSULTATIONS**

**Highways:** No objection.

**Trees Officer:** A beech tree on the site is protected by a tree preservation order, and although not directly affected by the development measures should be taken to ensure it is not damaged during construction. A condition is recommended requiring tree protection measures to be submitted prior to development commencing and retained during construction.

**Historic Environment Record:** Any alterations to this building will have to be carefully considered so that there is no detrimental impact on the character and appearance of the conservation area and the setting of the listed buildings. There is no objection in principle to the proposal as long as traditional materials are used. Recommend conditions in relation to the samples of roofing materials, scaled drawings of the proposed windows and the detailed finish of the external flue.

**Environmental Health:** Concerns are raised that this type of development has the potential to cause nuisance to nearby residents as a result of cooking odours and noise from extraction and filtration systems. Following receipt of additional information in respect of the make and model of extraction and fan system for the dispersal of odours, a condition is recommended that the development is undertaken in accordance with the specific details provided, together with the provision of an accelerator cowl to aid dispersion.

Additionally, to prevent local residents being disturbed by customers using the establishment, recommend that the opening days and hours are restricted to those stated on the application form.

This building contains asbestos materials and recommend that the following condition is included, should this application be granted:

‘Waste transfer notes following removal and disposal of any asbestos materials shall be sent to the local planning authority to demonstrate correct disposal.’

## **EPWORTH TOWN COUNCIL**

The extended opening hours will create more noise than at present which will have a detrimental effect on residential properties close by. The town council requests that this application be determined by the Planning Committee.

## **PUBLICITY**

Neighbouring properties have been notified and a site notice posted. One letter of objection has been received raising the following issues:

- existing issue with noise levels from night-time uses
- existing hot food takeaway results in noise issues including loud music, slamming of car doors, shouting, revving of engines, beeping of horns and people sitting in cars
- existing issue with littering
- objector’s house is a listed building with single glazing, which exacerbates noise issues
- the parking restrictions along this section of Epworth High Street are constantly ignored
- most retail businesses close at 5pm.

## **ASSESSMENT**

The site comprises a large single-storey shop unit which is located on the corner of High Street and Chapel Street, it was formerly occupied by a furniture shop. The retail unit has a

large forecourt area to the front (facing towards High Street), and is located within the defined shopping area for Epworth town centre, within the conservation area. The external walls and roof of the building are finished in a painted brick with a slate roof tile.

**The main issues in the determination of this planning application are the principle of development, impact on residential amenity and upon the character and appearance of heritage assets.**

## **Principle**

The application site is located on the High Street in the defined town shopping centre for Epworth. The site is retail in nature at present and there is a mix of uses in this area, including shops, public houses and hot food takeaways. It is worth noting that the applicant is seeking to relocate their existing pizza takeaway from the adjacent unit into this larger premises, and they are seeking to extend the size of the unit to each side. Epworth town centre contains a mix of uses, the predominant use being A1 shops. Policy S5 (Development in Crowle, Epworth, Kirton-in-Lindsey, Frodingham Road and Ashby High Street District Shopping Centres) states that proposals for non-shopping uses will be permitted provided they do not detract from the centre's shopping function. This proposal will not detract from the primary shopping function, particularly as the predominant use within the town centre is A1. This is emphasised in the North Lincolnshire Retail Survey 2012 which demonstrated that there was an increase in the number of A1 (shop) units in Epworth town centre by 5 units between 2007 and 2012 – a percentage increase of 3.4%. This survey shows that there was a 0.1% decrease in the number of A5 (Hot food takeaways) in the same time period. Therefore the proposal complies with policy S5 of the North Lincolnshire Local Plan.

Policy S9 of the local plan (Restaurants and Hot Food Takeaway Establishments) applies and states that hot food takeaways will be permitted in town, district and local centres provided that criteria relating to loss of amenity (noise, litter, parking), cumulative impact, road safety, parking provision and fume extraction are addressed. The proposed hot food takeaway will be located adjacent to the applicant's existing business, however there are no further hot food takeaways located in immediate vicinity of the premises. The impact upon residential amenity and highway safety will be discussed in the subsequent section of this report.

## **Residential amenity**

Hot food takeaways have the potential to result in loss of residential amenity, primarily through the issues identified in policy S9 of the local plan. It is worth reiterating the point that the proposal is located within Epworth town centre where there is a mix of uses in existence. This is an area where a mix of uses, including hot food takeaways, would typically be situated. There are residential properties opposite the site, including flats above shops. The proposed hours of operation are 5pm to 12 midnight Monday to Saturday and 5pm to 11pm on Sundays and Bank Holidays. Firstly it is worth noting that these proposed hours of operation are consistent with other evening economy uses within Epworth town centre. Furthermore, no objections have been raised by Environmental Health in relation to the hours. In addition it should be expected that residential properties within a defined town centre, with a mix of uses, will already experience some noise and other disturbance from those uses, including those related to the evening economy. The applicant's existing hot food takeaway (located in the unit adjacent to the site) is open 5pm to 11.30pm Monday to Friday, 5pm to 12.30am on Saturdays and at no time on Sundays and Bank Holidays.

Given the mix of uses in this area, which includes evening economy uses, it is considered that the additional hours of operation in this location will not result in noise disturbance over and above that already experienced in this part of Epworth town centre.

It has been suggested that the proposed development will result in noise and disturbance to neighbouring properties as a result of the comings and goings of customers and their vehicles, particularly during evening hours. This is a detached building, with no provision within the site for customer seating (internally or externally) and the use will not encourage the congregation of members of the public. The nature of the business is such that it relies on fast transactions with customers arriving and leaving the site on a frequent basis and not congregating outside. Furthermore the use of the hard-standing area for customer parking to the front of the building will deter customers from congregating outside. The playing of music from the premises is something that is in control of the applicant and can be easily mitigated.

It is accepted that there will be additional vehicular movements during evening hours as a result of the proposed use, however the High Street is a busy main road that serves many commercial properties that are open into the evening. For this reason it is considered that the proposed use will not result in unacceptable noise and disturbance as a result of vehicular movements along High Street.

The applicant has provided robust details of the proposed extraction system to be used to remove cooking odours and fumes. This extraction system has been agreed by the council's Environmental Health department with regard to both its ability to combat odour and its noise output. Therefore it is considered that the proposed extraction system will adequately protect neighbours from smells arising from cooking. The proposed extraction flue will be located on the rear roof slope, away from residential properties. Therefore it is considered that the proposed extraction system (in terms of its location) will adequately protect neighbours from odours associated with cooking. A bin storage area is proposed within an enclosed area to the side (west) of the building; this is acceptable and will not result in unacceptable loss of amenity as a result of food waste being stored there. It should also be noted that these bins will be emptied regularly and that they are located to be as unobtrusive to neighbours as possible. For these reasons it is considered that the proposed change of use will not result in unacceptable loss of amenity to neighbouring properties by virtue of odour. The provision of waste bins to the front of the building will ensure that the potential for littering is reduced.

The proposals show the provision of five parking spaces to the front of the building, four of which are proposed for customer parking. There is provision on the High Street for further parking and a public car park to the rear of the site. No objections have been raised by highways in relation to the level of parking provision, nor to the proposed change of use. The parking of vehicles in an illegal or otherwise obstructive manner is a matter for the police to deal with.

### **Heritage assets**

The retail unit is located within the Epworth conservation area, directly opposite two grade II listed buildings. The proposals are for a single-storey extension to each side of the building, the installation of an extraction flue on the rear roof slope, the replacement of a door with a window to the principal elevation and the re-roofing of the building. It is proposed to replace the existing asbestos slate tiles with a grey double Roman concrete tile. The replacement of

this tile with a concrete tile is not considered to be an appropriate approach in the conservation area, as it will not preserve or enhance its character. Therefore it is considered prudent to recommend a condition requiring samples of the proposed replacement roofing material to be submitted for consideration, which will ensure that the tile is appropriate to its location within the conservation area and respects the setting of the listed buildings. The use of a clay pantile or slate roof tile as a replacement material will be consistent with the appearance of existing buildings along Epworth High Street, including the listed buildings opposite.

The single-storey extensions to either side of the building will be proportionate to the scale and height of the existing unit. They are proposed to be finished in blockwork with painted render, which will match the painted finish of the existing building, thereby ensuring visual assimilation into the street scene. The extension to the western elevation will replace a mono-pitch toilet block, the removal of this extension is welcomed in visual amenity terms. Given that these extensions are proportionate to the scale and height and will match the appearance of the existing building, they are considered to preserve the character and appearance of the conservation area and respect the setting of the listed buildings to the north and west.

A new window is proposed in the principal elevation of the building to replace a door. Further windows are proposed in the front and rear elevations of the extension to the west of the unit. The existing windows and doors are constructed from timber. The plans show that these new windows will be proportionate to the scale and position of the existing doors. Conditions are recommended in relation to the windows being constructed from timber and requiring details of the glazing bars and design to be submitted. This will ensure that both the material finish and design of the windows are in keeping with the appearance of the existing building.

An extraction flue is proposed to the rear roof slope of the building, which will project 1 metre above the ridge line of the building. The height of the flue is required to ensure that odours are adequately dispersed in accordance with Environmental Health regulations. It is noted that this flue will be visible above the ridge line of the building, however measures can be taken to ensure that the detailed finish of the flue is less visually prominent in the street scene; the detailed finish will be secured by way of planning condition. The key views of these listed buildings are travelling east along High Street and north along Chapel Street, the flue will not be visible in either of these views due to intervening buildings and the set back position of this building.

In summary, the proposed change of use and extensions are considered to be acceptable in principle, and are not considered to give rise to loss of residential amenity or create highway safety issues. The proposals are considered to preserve the character and appearance of the Epworth conservation area and the setting of the listed buildings.

**RECOMMENDATION      Grant permission subject to the following conditions:**

1.  
The development must be begun before the expiration of three years from the date of this permission.

**Reason**

To comply with section 91 of the Town and Country Planning Act 1990.

2.  
The development hereby permitted shall be carried out in accordance with the following approved plans: 869 1 of 3, 869 2 of 3 and 869 3 of 3.

Reason

For the avoidance of doubt and in the interests of proper planning.

3.  
No development shall take place until a sample of the replacement roof tile to be used (which shall be a slate or neutral clay pantile) has been submitted to and agreed in writing by the local planning authority and only the approved material shall be used.

Reason

To ensure that the development is in keeping with the character and appearance of the conservation area and respects the setting of listed buildings in accordance with policies HE2 and HE5 of the North Lincolnshire Local Plan and CS6 of the North Lincolnshire Core Strategy.

4.  
The windows hereby permitted shall be constructed from timber and thereafter retained.

Reason

To ensure that the development is in keeping with the character and appearance of the conservation area and respects the setting of listed buildings in accordance with policies HE2 and HE5 of the North Lincolnshire Local Plan and CS6 of the North Lincolnshire Core Strategy.

5.  
No development shall take place until detailed drawings at a scale of 1:20 of the proposed timber windows have been submitted to and approved in writing by the local planning authority. The window details shall show sections, opening arrangements and glazing bar patterns. Details of the proposed materials and colour finishes shall be included. All works shall be carried out in accordance with the approved details.

Reason

To ensure that the development is in keeping with the character and appearance of the conservation area and respects the setting of listed buildings in accordance with policies HE2 and HE5 of the North Lincolnshire Local Plan and CS6 of the North Lincolnshire Core Strategy.

6.  
No development shall take place until details of the colour and material finish (manufacturer's specification) of the extraction flue to be installed on the rear roof slope of the building have been submitted to and approved in writing by the local planning authority. No additional or alternative materials shall be used unless otherwise agreed in writing by the local planning authority.

Reason

To ensure that the development is in keeping with the character and appearance of the conservation area and respects the setting of listed buildings in accordance with policies

HE2 and HE5 of the North Lincolnshire Local Plan and CS6 of the North Lincolnshire Core Strategy.

7.

Prior to commencement of the approved use, an extraction system shall be installed and in operation at all times whilst cooking is undertaken. An ESP 3000 E Electrostatic Precipitator system and an ON 100 Odour Neutraliser with an HV Jet Cowl shall be fitted to the odour extraction system to ensure efficient control and dispersal of odours. The system shall be installed, maintained, operated and serviced in accordance with the manufacturer's instructions. Any change to or replacement of the system shall only be undertaken following written approval by the local planning authority.

Reason

To minimise the impact of the development upon adjacent properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

8.

The hot food takeaway shall only operate if the equipment listed in condition 7 has been installed and is fully operational.

Reason

To minimise the impact of the development upon adjacent properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

9.

The hot food takeaway hereby permitted shall not be open to the public outside the hours of 5pm to 12 midnight Monday to Saturday and 5pm to 11pm on Sundays and Bank Holidays.

Reason

To define the terms of the permission and to safeguard residential amenity in accordance with policies DS1 and S9 of the North Lincolnshire Local Plan.

10.

No development shall take place until a scheme for the protection of the beech tree, which is covered by a tree preservation order, has been submitted to and agreed in writing by the local planning authority. The tree protection measures shall be undertaken in accordance with BS5837:2012 and retained for the duration of the construction period.

Reason

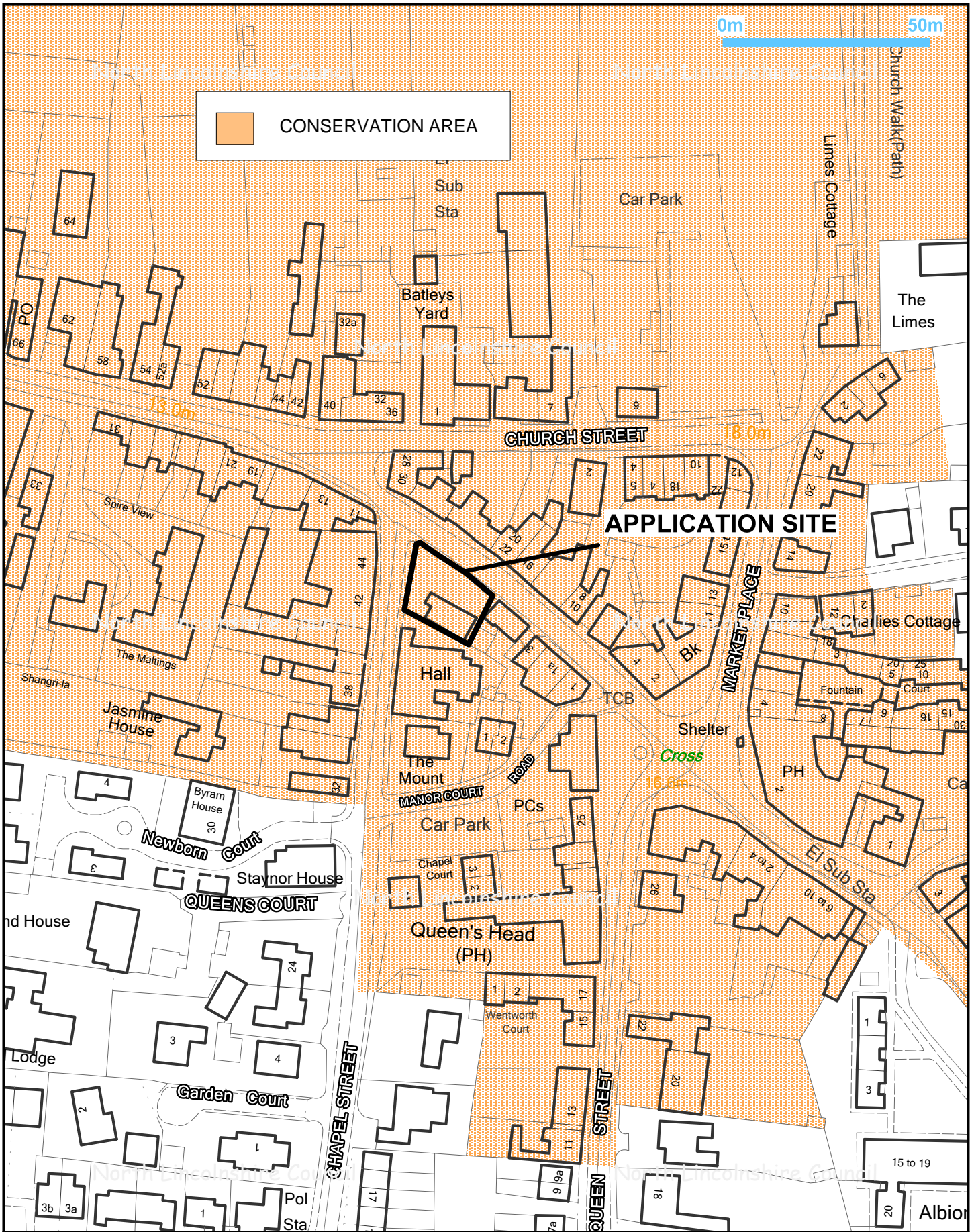
To ensure the work is carried out in a correct manner to protect the health of the trees and their contribution to the visual amenity and character of the local landscape.

### **Informative 1**

This building contains asbestos materials. Waste transfer notes should be sent to the local planning authority to demonstrate correct disposal of any such materials.

### **Informative 2**

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.



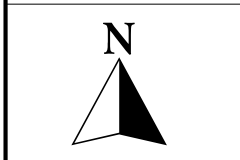
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Drawn by: Sue Barden

Date: 04/11/2014

Scale: 1:1250

Director of Places  
Peter Williams



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PA/2014/0104 Layout Plan - Not to scale

