

PETITION

COMMITTEE DATE: 18/12/2019

APPLICATION No. **19/02512/MNR** APPLICATION DATE: 13/09/2019

ED: **FAIRWATER**

APP: TYPE: Removal of condition(s)

APPLICANT: MR COFFI (BUNKER STATION) LTD

LOCATION: COFFEE BUNKER, 176 ST FAGANS ROAD, FAIRWATER, CARDIFF, CF5 3EW

PROPOSAL: REMOVAL OF CONDITION 3 OF PLANNING PERMISSION REF. 18/01979/MNR WHICH ALLOWED THE TEMPORARY VARIATION OF CONDITIONS 4 & 20 OF PLANNING PERMISSION REF. 13/02323/MNR, UNTIL 1st NOVEMBER 2019, SUCH THAT THE PREMISES MAY PERMANENTLY OPEN BETWEEN THE HOURS OF 07:00 & 21:30 MONDAYS TO FRIDAYS, 08:00 & 21:30 ON SATURDAYS AND 08:00 TO 18:30 ON SUNDAYS AND SERVE HOT FOOD

RECOMMENDATION: That planning permission be **GRANTED**.

1. The development shall be carried out in accordance with the following approved plans:
 - Specification/Data sheet
 - Accompanying letter dated 20th August 2018
 - Email dated 19/10/2018.

Reason: To ensure satisfactory completion of the development and for the avoidance of doubt in line with the aims of Planning Policy Wales to promote an efficient planning system.

2. The premises shall be used only be used as a restaurant, café or coffee shop and for no other purpose (including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order).

Reason: The use of the premises for other purposes within Class A3 could detract from the amenities of nearby occupiers.

3. Members of the public shall only be admitted to or allowed to remain on the premises between the hours of 07:00 and 21:00 Monday to Friday, 08:00 and 21.00 on Saturdays and 08:00 and 18:30 on Sundays.

Reason: To ensure that the amenities of other premises in the vicinity are protected, in accordance with policy KP5 of the Local Development Plan.

4. No cooking/heating of food shall take place from the premises other than in the following appliances:

- Buffalo double contact grill
- Flatbed grill
- Bain Marie
- Heavy duty microwave
- High Speed oven
- Commercial toaster

No additional appliances, other than those listed, shall be used for the cooking of food unless otherwise agreed in writing by the LPA.

Reason: The use of particular appliances may, in the absence of an appropriate fume extraction system, have a detrimental impact upon neighbouring occupiers in terms of noise and smell nuisance contrary to Policies KP5 and EN13 of the Cardiff Local Development Plan 2006-2026 and the proposal is only considered acceptable due to the limited extent of hot food to be cooked or heated.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

1.1 In 2013 the café was originally granted planning permission subject to conditions that sought to control hours of operation and the type of food sold. In 2018 a revised planning permission was granted that allowed for an extension of the hours of operation, and subject to strict control, the sale of hot food. The 2018 permission was granted on a temporary basis which would allow for the further consideration of the matters were there any issues to be experienced.

This application seeks permission to permanently allow for the extended hours of operation and the cooking and sale of hot food from pre-determined cooking appliances.

1.2 For members information the details of the relevant conditions are as follows:

- The original planning permission ref: 13/02323/DCO restricted the opening hours to 08:00-18:30 on any day and also the type of hot food that could be served.

1.3 Condition 4 of the planning permission regarding hours of operation stipulated that;

'No member of the public shall be admitted to or allowed to remain in the ground floor café premises between the hours of 18.30 and 08.00 on any day.

Reason: To ensure that the amenity of occupiers of other premises in the vicinity are protected in accordance with information received from the agent via email on the 16th April 2009; and in accordance with Policy 2.24 of the deposit Cardiff Unitary Development Plan.

- 1.4 Condition 20 of the planning permission regarding the sale of hot food stipulated that;

'Notwithstanding the provisions of Class A3 of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to the class in any statutory instrument revoking and re-enacting that order (with or without modification), the ground floor use hereby permitted shall be limited to the sale of drinks, cakes and cold snack foods, re-heating of toasties, paninis and sandwiches or such other foods as shall be agreed in writing by the Local Planning Authority. No other cooking or re-heating of food shall be allowed. Any equipment required shall be installed prior to the permitted use commencing. The equipment shall thereafter be maintained in accordance with the manufacturers guidelines, such guidelines having been agreed by the Local Planning Authority in writing.

Reason: In order to retain control of the use of the premises.

- 1.5 The application seeks to allow the premises to be open between the hours of 07:00 and 21:00 Monday to Friday, 08:00 and 21:00 on Saturday, 08:00 and 18:30 on Sunday and to serve hot food as prescribed in the temporary granting of those hours and the sale of hot food by planning permission ref:18/01970/MNR.

2. **DESCRIPTION OF SITE**

- 2.1 The site comprises a three storey building that incorporates a ground floor A3 café and 2no, two bed flats above. The site is located adjacent to Fairwater Green, on the edge of the Fairwater Green Local Centre. The predominant shopping role of the Local Centre is located to the north-east and south-east of the development site. A series of garages are located to the north of the site with residential dwellings being found beyond. A variety of residential dwellings are also found in a southerly and easterly direction.

3. **SITE HISTORY**

- 3.1 09/00335/DCO – Planning permission refused for the erection of a three storey mixed use development comprising A3 café use at ground floor and two residential units above.
- 3.2 Appeal APP/Z6815/A/10/2134523 was considered by the appointed Planning Inspector against the refusal of planning permission 09/00335/DCO and was allowed.
- 3.3 13/02323/DCO - Planning permission granted for a three storey mixed-use development comprising Class A3 café at ground floor and two residential units above, with associated works. The scheme whilst being very similar to that approved by 09/00335/DCO included some design amendments.
- 3.4 16/02842/MNR – Planning permission refused for the construction of a detached A1/A2 unit measuring approximately 54 square metres sited on land

adjacent to 176 St Fagans Road, Fairwater.

- 3.5 18/01979/MNR – Planning permission granted for the variation of condition 4 (to allow hours of opening from 07:00 Monday to Friday and closing 21:30 Monday to Saturday) and condition 20 (to allow the sale of hot food) of 13/02323/DCO.

4. POLICY FRAMEWORK

National Planning Policy

- Planning Policy Wales (10th Ed) 2016
- Technical Advice Note 12: Design
- Development Management Manual

Cardiff Local Development Plan 2006-2026 (2016)

- Policy EN13 (Air, Noise, Light Pollution and Land Contamination)
- Policy R5 (Local Centres)
- Policy R8 (Food and Drink uses)
- Policy T5 (Managing Transport Impacts)
- Policy W2 (Provision for Waste Management Facilities in Development)

Supplementary Planning Guidance

- Managing Transportation Impacts (Incorporating Parking Standards) SPG 2018
- Food, Drink and Leisure Uses SPG 2017
- Waste Collection & Storage Facilities (October 2016)

5. INTERNAL CONSULTEE RESPONSES

- 5.1 The Operational Manager, Environment (Pollution Control) – no objection
- 5.2 The Operational Manager (Transportation) – no response

6. REPRESENTATIONS

- 6.1 A petition has been received, which has been signed by 78 people who object to the proposal on the following grounds:

- The impact of the proposal on existing businesses within the area.
- The impact on parking and highway safety which is already a problem within the area.

- 6.2 Objections or representations expressing objections or concerns with respect to the proposal have been received from the following addresses:

- 60 Everswell Road, 178, 181, St Fagans Road, and No's 2, 3, 4, 5, 6 & 7 The Drive.

Full details are available online, however, the comments can be summarised

as follows:

- The impact on existing businesses within the area.
- Traffic congestion and insufficient parking.
- The cooking of hot food on the premises will require new extraction equipment which will impact upon the amenities of neighbouring occupiers.
- The removal of the conditions is just a way of adding value to the property.
- Noise and disturbance caused by customers and deliveries.

7. ANALYSIS

Land Use Policy Considerations

The site is located within the settlement boundary as defined by the LDP Proposals map. Policy R8 identifies that food and drink uses are most appropriately located in the City Centre, the Bay and District and Local Centres subject to amenity considerations, highways matters and crime and fear of crime considerations and where they do not cause unacceptable harm to the shopping character role and character of designated centres. Whilst the premises are located adjacent but outside the Fairwater Green Local Centre the application proposes to extend the opening hours and allow the sale of hot food from an existing A3 commercial premises and no change of use of the unit will take place. In light of this the application raises no land use policy concerns.

Residential Amenity Considerations.

The premises are located adjacent to the Fairwater Green Local Centre which comprises a mixed residential and commercial setting. There is residential accommodation within the upper floors of the application site and the surrounding buildings, and there are other commercial premises within the vicinity with similar operating hours to the ones proposed. With regard to the loss of neighbours amenity caused by noise disturbance paragraph 5.5 of the SPG states *'it should be acknowledged that residents living within designated centres cannot expect the same standards of amenity as those living in a wholly residential area'*. Members should also be aware that the Councils Shared Regulatory Service (Pollution Control) has noted that there has been no specific complaints regarding noise and other issues from neighbouring occupiers relating to the extended hours of use of these premises and therefore has no objection to the premises operating permanently during these hours. Regard however, has been given to the fact that the premises include an external seating area, and therefore, it is considered necessary to impose a condition restricting the hours of use to 9.00pm in-line with the advice contained in paragraph 5.26 of the SPG 'Food, Drink and Leisure Uses' (November 2017). Having regard to this context and subject to a condition restricting hours of use it is considered that extended opening hours would not have an unreasonable amenity impact.

With regard to allowing hot food to be served on the premises and the potential impact on the neighbouring occupiers, it should be noted that the ground floor

of the building is already in use as an A3 café and the reheating of toasties, paninis and hot sandwiches is already taking place on the premises and was allowed on appeal under planning permission 09/00335/DCO. This application seeks to vary condition 20 of the planning permission so that foods other than those specified in the condition can be sold from the premises using the similar methods of cooking/heating. It is not considered that the use of the premises to sell food other than those specified in the condition using similar methods of reheating to those that are currently used would not cause a harm to the amenities of the neighbours different to one caused by the permitted use of the premises granted under planning permission 13/02323/DCO.

Transport Considerations

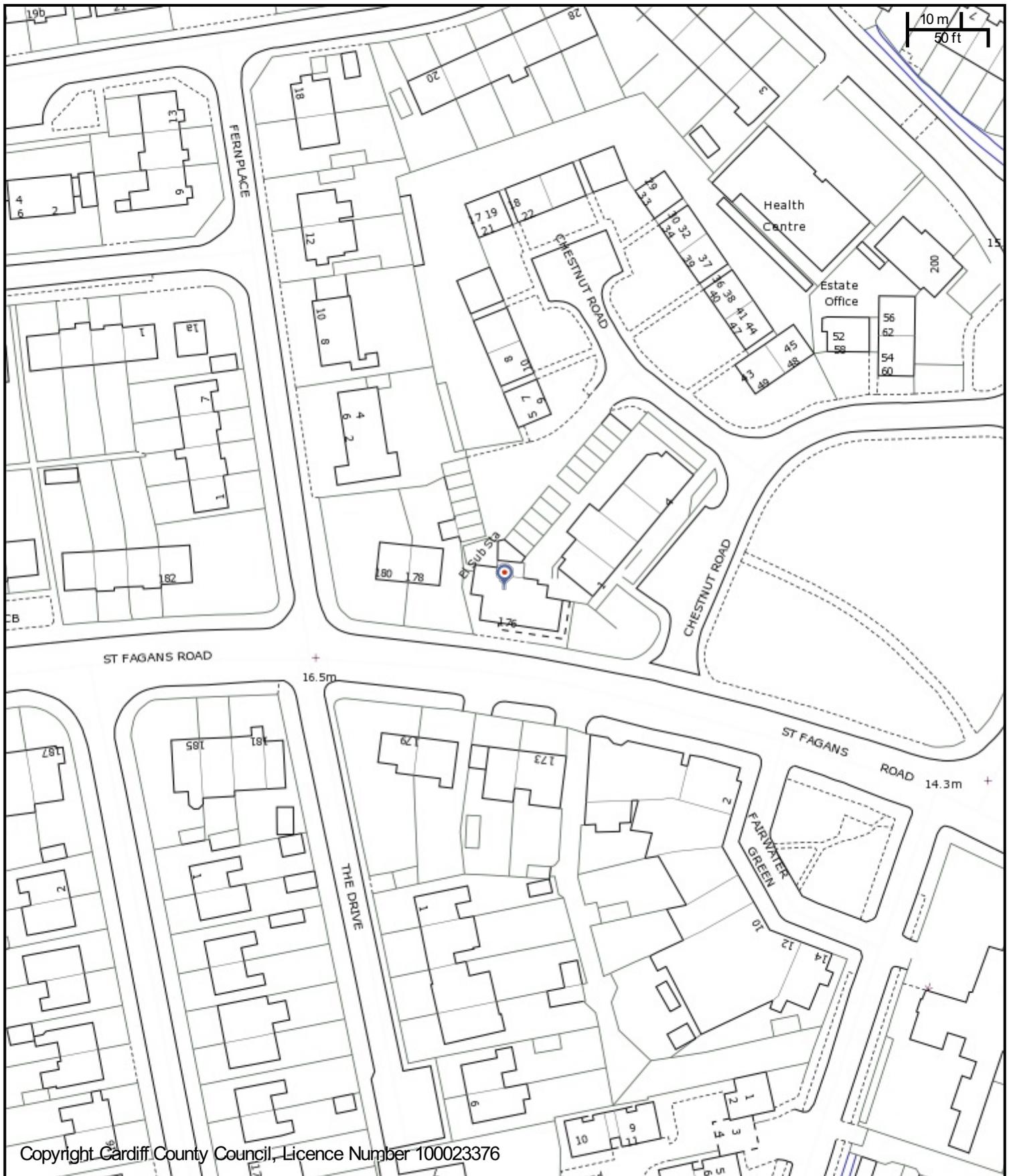
With regard to highway safety and parking, the premises are sited on the edge of the Local Centre in a highly sustainable location within walking distance of nearby residential areas and close to public transport links. Having regard to this context it is not envisaged that the premises would attract significant traffic movements above and beyond those that could be expected if the authorised use was to continue.

Other considerations

In regard to comments made by neighbours which are not covered above members should note that Planning Policy Wales makes it clear that it is no part of the planning system to interfere with normal competition between commercial activities.

Conclusion

It is concluded that the application is acceptable in accordance with the planning policies listed, and it is recommended that planning permission be granted, subject to conditions.



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