

COMMITTEE REPORT

BY THE EXECUTIVE DIRECTOR FOR ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES
READING BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE: 29 March 2023

Ward: Abbey

App No.: 220567

App Type: FUL

Address: 109b Oxford Road, Reading, RG1 7UD

Proposal: Change of use from sui generis (betting shop) to A3 restaurant with ancillary A5 takeaway and replacement shopfront (Part retrospective)

Applicant: Express Team Ltd

Deadline: Originally extended to 3rd March 2022

RECOMMENDATIONS

Refuse full planning permission, for the following reasons:

1. In the absence of evidence to the contrary, the applicant has failed to demonstrate that the construction, odour control measures, noise levels, and running specifications of the kitchen extract flue will not result in noise, disturbance and odours affecting occupiers of surrounding dwellings resulting in harm to the amenity of occupiers of those dwellings. This would be contrary to Policies CC8, CR6, EN16 and EN17 of the Reading Borough Local Plan 2019.

Informatives to include:

- 1) Refused drawings and details
- 2) Positive and Proactive

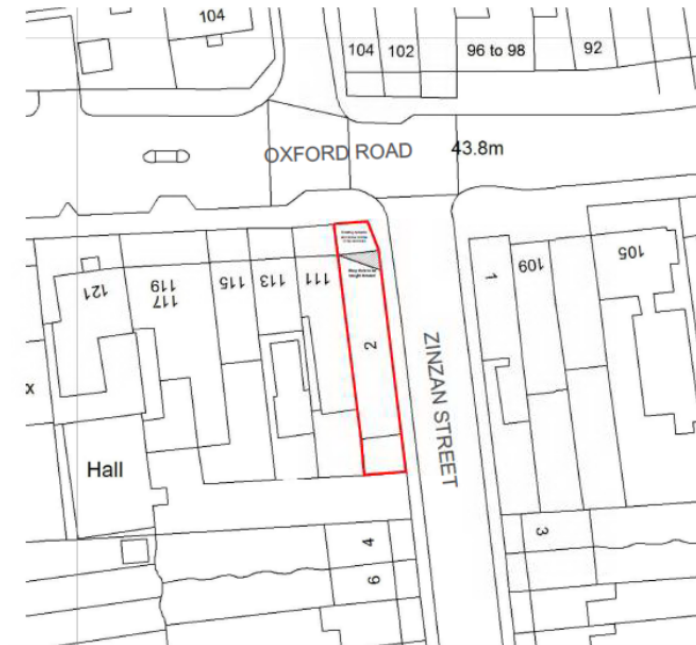
1. INTRODUCTION/BACKGROUND

- 1.1 The application relates to a ground floor shop at the end of a terrace located on the south side of Oxford Road and forming the corner with Zinzan Street. Until 2018, the ground floor was occupied by a vacant betting shop 'Ladbrokes' - a *Sui Generis* use. The upper floors are in residential use.
- 1.2 This part of Oxford Road is characterised by retail/commercial activity at ground floor, with residential uses (ancillary to the ground floor use) on the upper floors. Backing on to the site are residential properties in Zinzan Street which are predominantly Victorian terraces. Oxford Road is a busy shopping street and a major route into and out of Reading town centre for vehicles and pedestrians alike.
- 1.3 The building is not listed but is located within Castle Hill/Russell Street/Oxford Road Conservation Area. The site is located within the defined Reading Central Area, but outside of the central core, primary shopping area and office core areas. In addition, the site is also within an air quality management area.

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- 1.4 The application was called in by Councillor Page and Councillor Rowland due to concerns regarding the impact on heritage assets and odour/noise disturbance.

Location Plan



Not to Scale

The application site as seen from Oxford Road:

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2. PROPOSAL AND SUPPORTING INFORMATION

- 2.1 Application 180273 granted planning permission for “Change of use from sui generis (betting shop) to A3 restaurant with ancillary takeaway and replacement shopfront”. This was approved subject to pre-commencement conditions intended to control the materials used in the new façade and the construction and control of kitchen extraction/ventilation equipment. No such details were submitted and, furthermore, works commenced on site which were not undertaken in accordance with the approved plans. Given that the change of use and associated development occurred without the discharge of conditions, the works are unauthorised.
- 2.2 In response and given the level of concern raised over the works that had taken place, an Enforcement Notice dated 17 January 2020 was served under ref Legal/SQ /IKEN13003 with the following requirements:
- (a) *“Cease the unauthorised use of the building on the land as a restaurant/takeaway (Use class A3/A5)*
 - (b) *Remove, in their entirety, the existing unauthorised shopfronts from the north (Oxford Road) and east (Zinzan Street) elevations including the incorrectly-positioned doorway, display window and transom light and the “ornate timber plinth”, “ornate timber columns” (including corbel mouldings) and “ornate timber panelling”, and restore those elevations to their pre-existing state as shown on the attached Photograph ‘B’ ‘C’ and ‘D’ (Google Streetview images dated June 2018)*

- (c) *Remove the unauthorised air-handling plant installed within the east (Zinzan Street) elevation and restore that elevation to its pre-existing state as shown on the attached Photographs 'C' and 'D' (Google Streetview image dated June 2018)*
- (d) *Remove the two unauthorised air conditioning units and associated pipework and wiring from the south (rear) elevation and restore that elevation to its pre-existing state as shown on the attached Photograph 'E' (Google Streetview image dated June 2018)*
- (e) *Remove from the land all debris and excess building materials resulting from compliance with steps (b) to (d) above”.*

In response, this applicant submitted this application for retrospective planning permission to regularise the works on site. The Enforcement Notice remains in force but has been held in abeyance pending the outcome of this application.

2.3 The current application comprises amended shopfront proposals which are largely based on the previous approval (180273) but with a few changes, most notably the change to a centrally located doorway to the main shopfront and a revised material specification scheme. The proposals also seek to retain the recently installed kitchen extraction equipment used to treat and reduce fumes.

2.4 The application was due to be considered by Planning Applications Committee on 1st March 2023. However, on the day of the meeting officers were advised that a flue had been installed at the rear of the site that was not shown on the plans. The application was removed from the agenda so that the impact of the flue could be assessed. This is discussed further below.

2.5 The following plans and supporting documents have been assessed:

Existing Site - Location Plan 1.0
Existing Plan/Elevation 2.0
Proposed Plan/Elevation 3.0
Received 19th April 2022

Paving Specification
Design and Access Statement April 2022
Multiflow Fan Product Brochure
Fan Specification
Litter Management Letter
Filter Specifications x 2
Filtration Specification
Inspection and Verification Report for Ventilation Services Installed
Design and Specification for Kitchen Ventilation System
Received 19th April 2022

Letter in Response to Environmental Protection Concerns
Received 3rd May 2022

Rectification Report

Received 27th April 2022

Letter from KRS Services Ref: Pepes Reading/Let 1 - in response to Environmental Protection concerns

Received 3rd May 2022

Kitchen Supply & Extract Ventilation Systems - External Noise - Revised Assessment Ref: MDR/J5015d

Received 8th February 2023

3. RELEVANT PLANNING HISTORY

200142/FUL Change of use from sui generis (betting shop) to A3 restaurant with ancillary A5 takeaway and replacement shopfront (Part retrospective). Withdrawn.

180273/FUL Amended Description: Change of use from sui generis (betting shop) to A3 restaurant with ancillary takeaway and replacement shopfront (revised elevation details). Permitted.

181755/ADV Externally illuminated fascia sign to Oxford Road and Zinzan Street shopfronts and externally illuminated projecting sign fronting Oxford Road. Permitted.

181785/APPCON Application for discharge of conditions 3,4 and 9 of Planning permission 180273. Split Decision.

Enforcement Notice Legal/SQ /IKEN13003 dated 17 January 2020

NEARBY SITES - 109A Oxford Road

201585/FUL Change of use from an estate agent use class E to a restaurant and hot food takeaway sui generis use class. Granted.

201586/ADV New fascia and projecting sign. Granted.

4. CONSULTATIONS

(i) Statutory

4.1 None

(ii) Non-statutory

4.2 Environmental Protection: Further to updated odour and noise reports, no objection subject to conditions to require maintenance to ensure continues to meet criteria. Discussed further below.

4.3 Heritage Officer: Further to updated plans showing improved shopfront and submission of material samples, no objection to the proposed shopfront. Discussed further below.

(iii) **Public/ local consultation and comments received**

- 4.4 17 neighbour letters were sent, a site notice displayed, and a notice placed in local paper.
- 4.5 One letters of representation made to Ward Councillors and reported to Planning concerned with (in summary):
- Upper floor tenants complaining of a 'terrible stench' all day/nights/weekend
 - Excessive commercial waste
- 4.6 Representations from local groups have been received as follows:
- 4.7 Reading Conservation Area Advisory Committee: Support the application subject to quality of materials to be secured by condition. Concern raised over cumulative quantity of Florentine red paint. Applicant should be made aware of the Design Guide for Shopfronts SPD. Consider grey paving, instead of red block paving at the front of the site would be preferable.
- 4.8 Reading Civic Society: No comments received.

5. LEGAL CONTEXT

- 5.1 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority in the exercise of its functions to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making (NPPF paragraph 12).
- 5.3 In this regard, the NPPF states that due weight should be given to the adopted policies of the Local Plan 2019 according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).
- 5.4 Accordingly, the National Planning Policy Framework 2019 and the following development plan policies and supplementary planning guidance are relevant:

National Planning Policy Guidance

National Planning Policy Framework (NPPF) 2021
National Planning Policy Guidance 2014 onwards

Reading Borough Local Plan 2019

CC1: Presumption in Favour of Sustainable Development

CC7: Design and the Public Realm
CC8: Safeguarding Amenity
EN1: Protection and Enhancement of the Historic Environment
EN3: Enhancement of Conservation Areas
EN6: New Development in a Historic Context
EN16: Pollution and Water Resources
EN17: Noise Generating Equipment
TR3: Access, Traffic and Highway Related Matters
TR5: Car and Cycle Parking and Electric Vehicle Charging
RL1: Network and Hierarchy of Centres
OU5: Shopfronts and Cash Machines
CR1: Definition of the Centre
CR2: Design in Central Reading
CR6: Living in Central Reading

Supplementary Planning Documents and other guidance

Revised Parking Standards and Design SPD (2011)

Design Guide for Shopfronts SPD (2022)

Castle Hill/Russell Street/Oxford Road Conservation Area Appraisal (2020)

6. APPRAISAL

Principle of development

- 6.1 Planning permission was granted at the Planning Applications Committee 30th May 2018 for “Change of use from *sui generis* (betting shop) to A3 restaurant with ancillary takeaway and replacement shopfront” (application 180273). This application was granted with conditions attached to include material samples and extraction/ventilation details to be submitted prior to commencement of works. The change of use itself from *Sui Generis* to A3 restaurant with ancillary A5 takeaway was considered acceptable in principle and that remains the case, albeit now falling within Use Class E.
- 6.2 Officers worked closely with the applicant during the course of the 2018 application to arrive at a positive recommendation. However, the development was subsequently commenced without discharging the conditions, furthermore the works were not undertaken in accordance with the approved plans. This resulted in a poor visual appearance and gave rise to concerns over noise and odours from the kitchen extraction equipment.
- 6.3 The works that have taken place are considered to be unauthorised and are subject to the 2020 Enforcement Notice. This current application seeks planning permission for largely the same as that approved under application 180273 but with some changes to details including the centrally located door to the shopfront and revised material specification scheme. Retrospective approval is also sought for a kitchen extraction system that has recently been installed. However, this flue has not been shown on the proposed plans.

Design and Heritage

- 6.4 The unauthorised works have resulted in a poor-quality appearance and are considered unacceptable in terms of the impact on the character and appearance of the Castle Hill/Russell Street/Oxford Road Conservation Area.

This contrasts with the permission (180273) which represented a clear improvement to the appearance of the original 'Ladbroke's' building which had a notably poor appearance and did not contribute positively to the Conservation Area. The specific areas of breach are highlighted as follows:

- The main front door of the shopfront has been installed centrally rather than to the left-hand side (viewed from the street) as shown on the previously approved drawings;
- The corbel moulding shown on the previously approved drawings is missing from the pilasters;
- The timber panel above the pilaster corbel shown on the previously approved drawings (at fascia level) is missing;
- A coated metal infill panel has been installed under the fascia in place of the transom light glazing shown on the previously approved drawings;
- The timber shopfront panelling shown on the previously approved drawings is missing from much of the shopfront and a painted render finish with pinned-on timber beading has been applied instead;
- The 'ornate panelling' as annotated on the previously approved drawings, where installed, consists of a manufactured timber board which grooves routed out and painted;
- The surfacing materials for the front forecourt are not the same as that shown on the previously approved drawings;
- The opening on the flank elevation shown on the previously approved drawings to be closed off with brickwork remains in use for extraction;
- Two air conditioning condensers have been mounted to the rear elevation, the position of one obstructs the installation of the air supply system acoustic louvre grille as previously approved.

6.5 With specific regard to the shopfront, the proposed plans largely seek to address the above and revert to a design which more closely reflects what was originally granted permission. It is proposed to keep the front door centrally as installed rather than revert to the side and this is considered acceptable, resulting in a balanced composition and being similar to other shopfronts along this part of Oxford Road.

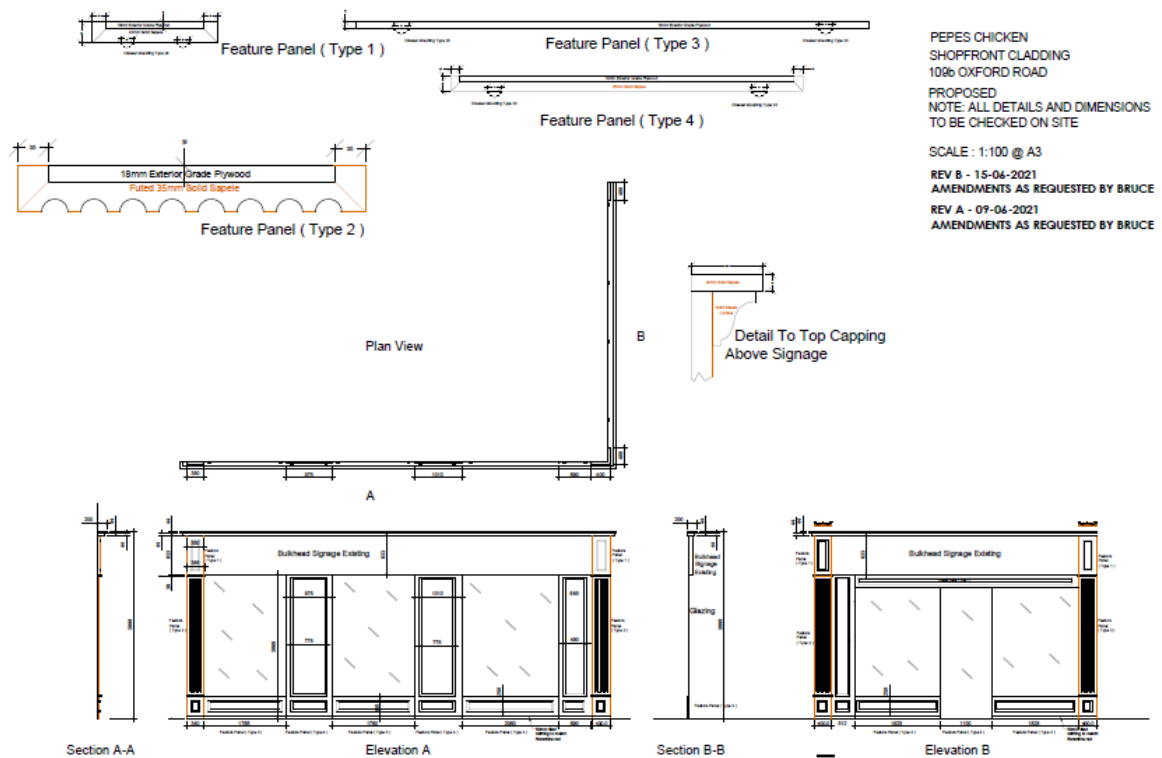
6.6 It is also no longer proposed to block up the opening on the flank elevation adjacent Zinzan Street. The applicant has stated that this is only for fresh air intake and this is the same as that for application 201585 at 109a Oxford Road. Given this and that this is an existing small-scale opening, this is not considered unacceptable.

6.7 Further details of the external architectural appearance have been submitted during the course of the application as follows:

- a sample of the Herringbone brick paving (red) for the front of the shop;
- a colour chart depicting the 'Florentine' red proposed to paint the timber columns and panels; and
- a more detailed drawing depicting the timber panel detail (using Solid Sapele timber)



Paving sample and colour chart



PEPES CHICKEN
 SHOPFRONT CLADDING
 108b OXFORD ROAD
 PROPOSED
 NOTE: ALL DETAILS AND DIMENSIONS
 TO BE CHECKED ON SITE
 SCALE : 1:100 @ A3
 REV B - 15-06-2021
 AMENDMENTS AS REQUESTED BY BRUCE
 REV A - 09-06-2021
 AMENDMENTS AS REQUESTED BY BRUCE

Timber panel detail

- 6.8 Further to the above, the applicant has provided a final drawing of the shopfront which also now includes the proposed timber front door painted Florentine red.
- 6.9 It is considered, in consultation with the Council’s Conservation and Urban Design Officer, that with specific regard to the shopfront, the proposals would represent an opportunity to enhance this building, with the ground floor

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colours sympathetic to the upper floor and the shopfront restored to a more traditional form which respects the age and character of the host building. Similarly, the proposal to replace the tarmac with a charcoal colour paving would also improve the appearance when viewed from Oxford Road.

6.10 Further to the above, however, the photos below show a flue that has recently been installed on the rear elevation (red arrow below):



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- 6.11 This flue is not shown on the plans and is unauthorised. As can be seen above, although the extraction flue is located on the rear elevation it is still clearly visible from the car park and access road at the rear of the site, as well as from wider views in the street scene and Conservation Area.
- 6.12 In such a highly visible location, the large extraction flue, due to its bulk, siting and appearance, results in a prominent and unattractive addition that fails to preserve the character and appearance of the Conservation Area.
- 6.13 The extract flue to the rear of the building, due to its excessive scale, unsympathetic design and prominent siting is an obtrusive feature which fails to preserve or enhance the character and appearance of the Castle Hill/Russell Street/Oxford Road Conservation Area.
- 6.14 In these circumstances paragraph 202 of the National Planning Policy Framework says that the harm should be weighed against the public benefits of the proposal. Having a building in use is advantageous, but not if it necessitates harmful alterations, as in this case. Whilst it is acknowledged that most restaurants and take-away businesses require a commercial flue, this appears excessively large and it is not clear that it is successful in mitigating against odours, as discussed elsewhere in this report. As such, any weight attributed to the need for such a business to have such a large flue does not overcome the harm identified or provide an acceptable justification for the retention of a flue that is harmful to the conservation area.
- 6.15 A large extraction unit/flue was originally proposed to the rear of the building at the time of the original application 180273, albeit sited in a different location at the rear. That was removed from the plans and replaced with a more discreet extraction system at a lower level, not readily visible from the public domain and not considered to result in any adverse effect on the character and appearance of the conservation area. At the time of the 2018 Planning Application Committee meeting, the applicant obtained planning permission on the basis that that this would be achievable in mitigating against noise and odour. It is, therefore, disappointing that this has not happened and instead another bulky, prominent flue has been installed.
- 6.16 Whilst the shopfront proposal is considered acceptable in design and heritage terms, the flue fails to preserve the character and appearance of the Conservation Area. Whilst the harm is less than substantial it is not sufficiently outweighed by any public benefits and noting odour matters addressed elsewhere in this report. This would be contrary to Policies CC7, EN1 and EN3 of the Reading Borough Local Plan 2019. The unauthorised flue is not shown on the submitted drawings for which approval is being sought. It would therefore not form a reason for refusal in the case of the current application and instead would be a matter to be resolved through Planning Enforcement action.

Impact on neighbouring amenity (including environmental protection matters)

- 6.17 Policy CC8 seeks to prevent development from having a detrimental impact on the living environment of existing residential properties through noise and

disturbance, dust, smells, fumes and vibrations. Policy EN17 requires that any noise generating equipment should be designed to read at least 10dBA below the existing background level as measured at the nearest sensitive receptor.

- 6.18 The main issue in terms of residential amenity is noise and odours from the extraction equipment associated with the use. It is not uncommon for restaurants and hot food takeaways to be located close to residential accommodation and for fumes and smells to be dealt with by means of extraction equipment. It is noted that in this regard, whilst planning application 180273 included a specific condition requiring further ventilation and extraction details to be submitted prior to works commencing, these details were not provided. Furthermore, there were subsequently concerns that the system that had been installed does not satisfactorily control odour and noise emissions.
- 6.19 This application had sought to address the situation and updated odour and noise assessments, confirming additional measures and remedial works that have been undertaken, were submitted. However, these assessments rely on the unauthorised flue that has been installed that, as above, is not shown on the plans and is considered unacceptable in design and heritage terms.
- 6.20 Environmental Protection Officers have advised that, based on the documents provided, it should be the case that odour would be controlled acceptably and without the previous issues arising. However, even if the design of the flue was considered acceptable (it is not), officers (including Environmental Protection officers) have noted on recent site visits that cooking smells are still readily noticeable. There is therefore also uncertainty as to whether the flue has been correctly installed and if it has, whether the specification of the system is in fact sufficient in practice to satisfactorily control odour given odour emissions that currently remain.
- 6.21 It remains far from clear as to the extent of the shortcomings of the extract system which this retrospective application seeks to retain as shown on the plans (i.e. *without* the recently added flue), or the effectiveness of the recently added flue element at the rear, and if any works could be carried out to bring it up to the required standard. Indeed, it may not be possible to rectify the existing system, and if it were there is no guarantee that the remedies would be acceptable in terms of appearance. A wholly different system -may be required. Given the considerable degree of uncertainty that exists, it is considered that the current application fails to demonstrate that the retention of the existing system would avoid harm to the amenity of adjoining dwellings in terms of noise and odour, contrary to policies CC8, CR6, EN16 and EN17 of the Reading Borough Local Plan 2019.
- 6.22 Despite the fundamental concern over the extraction equipment identified above, other relevant matters include the proposed hours of use of the premises. These remains as previously approved under application 180273: 11:30-23:00 Sunday - Thursday and 11:30 - 23:30 Friday-Saturday. This is not considered unreasonable given the operating hours of other nearby establishments and this could be secured by condition. The use of the premises incorporating hot food takeaway might generate additional usage over and above the current use, especially in the evening hours, however, it is not considered that this would be so significant as to be detrimental to neighbouring residential properties especially in view of the existing hot food

takeaway businesses nearby in this parade of shops which are of a similar character.

Highway Matters

- 6.23 This site is situated on A329 Oxford Road which is a main transport corridor in and out of Reading and is a busy public transport route between central Reading and the west. It is located in Zone 2, Primary Core Area, of the Revised Parking Standards and Design SPD. This zone directly surrounds the Central Core Area and extends to walking distances of 2 kilometres from the centre of Reading.
- 6.24 Oxford Road and the surrounding road network all have extensive parking restrictions preventing on-street parking. A residents' permit parking scheme operates in the area thereby restricting and monitoring unauthorised parking.
- 6.25 In accordance with the Council's adopted Parking Standards and Design SPD, the proposed restaurant use would generate a parking demand of 1 space per 5sqm whereas the proposed take-away use would generate a parking demand of 1 space per 40sqm. There is no off-street parking associated with the site however the parking demand generated by the proposal could be suitably accommodated within the short stay parking bays on Oxford Road and nearby public car parks as is currently the case with other similar uses in the street.
- 6.26 There are therefore considered to be no transport objections to the proposals in accordance with Local Plan Policies TR1, TR3 and TR5 and the Revised Parking Standards and Design SPD 2011.

7. CONCLUSION

- 7.1 Having regard to the Development Plan, material considerations and all matters raised, the Local Planning Authority considers that, whilst the proposals for the replacement shopfront would visually enhance the character and appearance of the conservation area, insufficient evidence is available within the application to demonstrate that the construction, odour control measures, noise characteristics, and running specifications of the existing kitchen extract flue would avoid causing noise, disturbance and unpleasant odours to occupiers of surrounding dwellings. It has also not been established what, if any, alterations could be made to the system to ensure that it performs in such a way as to avoid harm to the amenity of these neighbouring dwellings. Furthermore, the flue that has been installed which it appears is being relied upon to reduce noise and odour (although its effectiveness remains unproven) results in harm to the character and appearance of the Conservation Area and should be removed. The development is therefore contrary to Policies CC8, CR6, EN1, EN3, EN16 and EN17 of the Reading Borough Local Plan 2019 and is recommended for refusal on that basis.

Case Officer: Ethne Humphreys

Proposed Floor Plan and Elevations



Proposed Elevations