

**22/01056/COU
NON MAJOR**

SEP Properties Ltd

**BILBROOK
Cllr G Burnett
Cllr I Sadler**

2 Pendeford Mill Lane Bilbrook Staffordshire WV8 1JB

Planning application for change of use from retail store (use class E) to hot food takeaway (sui generis); associated extraction, plant equipment and external alterations.

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site description

1.1.1 The proposal relates to No 2 Pendeford Mill Lane, located on the southern side of the highway just past Lane Green Road. There is a short lay-by on the southern side of Pendeford Mill Lane that abuts the property as well as the adjacent business to the east. On the west side of the property, there is parking that is shared with the adjacent former bank. This forms the northern end of the "Bilbrook chicane", leading to further shops and services as Duck Lane extends towards Codsall.

1.2 Planning history

2005 First floor office extension and rearrangement of ground floor, Approved subject to conditions [05/00122/FUL]

1991 First floor showroom and offices, Refused [91/00821]

2. APPLICATION DETAILS

2.1 Pre-application advice

None

2.2 The proposal

2.2.1 This is an application to change the use of No 2 Pendeford Mill Lane from a vacant retail store (Class E) to hot food takeaway (sui generis), as well as the associated external alterations.

2.2.2 The application notes that the external alterations are proposed as follows:

- New aluminium PCC entry door and associated frame for the principal entrance to the store; and
- Aluminium panelling to bolster the shopfront along the northern and eastern elevations (advertising is subject to separate consent) and
- Fresh air intake and extract duct extending above the flat roof, both in traffic grey colour.

2.2.3 The application notes the proposed use would have ten full-time employees and 15 part-time employees and be open from 11 AM - 11PM, every day.

2.2.4 It should be noted that the LPA has been informed by the agent that the intended tenant for the property would provide a pizza takeaway (which was provided upon the

request of a Ward Councillor), but the LPA has not been informed of the name/business name of said tenant. Public Access does include neighbour comments that postulate about the intended tenant, but the LPA has no definitive knowledge of the intended tenant. Further, the considerations below are related to a hot food takeaway, rather than any specific type of hot food. This is important to recognise because if a change of use is authorised for a sui generis hot food takeaway, the tenant could feasibly change from a pizza takeaway to any other hot food takeaway.

2.3 Amended plans

2.3.1 The full extent of the proposed development was indicated correctly on the plans provided 11/11/22. The agent did provide amended plans (received 2/12/22) that updated the property boundary to reflect the current ownership boundary. The amended plans also added a cycle provision for three bicycles.

2.4 Applicant's submission

2.4.1 The application is accompanied by a Planning Statement as well as specification sheets on the proposed air handling and ventilation equipment (all received 11/11/22).

3. POLICY CONTEXT

3.1 Within the Codsall, Billbrook & Oaken Development Boundary.

3.2 Adopted Core Strategy

NP1 - The Presumption in Favour of Sustainable Development

Core Policy 1: The Spatial Strategy

Core Policy 3: Sustainable Development and Climate Change

Policy EQ9: Protecting Residential Amenity

Appendix 6: Space about Dwellings Standards

Core Policy 4: Promoting High Quality Design

Policy EQ11: Wider Design Considerations

Core Policy 8: Hierarchy of Centres

Strategy Objective 11: To support the growth of a vibrant, prosperous and sustainable local economy; sustain, improve and enhance the vitality and viability of village centres and promote South Staffordshire as a tourist destination.

Core Policy 11: Sustainable Transport

Policy EV12: Parking Provision

Appendix 5: Parking Standards

3.3 Adopted local guidance

South Staffordshire Design Guide [2018]

Sustainable Development SPD [2018]

3.4 National Planning Policy Framework [2021]

12. Achieving well-designed places

4. CONSULTATION RESPONSES

4.1 Comments received

No comments from Ward Councillors (expired 12/12/22)

Bilbrook Parish Council (received 9/12/22) Bilbrook Parish Council objects to the application on the following grounds:

Serious problems as the road system is inadequate due to the bad junction at Lane Green Road and Pendeford Mill Lane and as such, it prejudices highway safety under NPPF

Paragraph 109. Insufficient parking spaces for staff and customers.

Adverse effect on the economy and businesses - Bilbrook has an overconcentration of hot food outlets. The Parish Council understands this is for a Pizza takeaway, however, Bilbrook already has one pizza takeaway, as does Birches Bridge. In addition to this Bilbrook has a chip shop, an Indian takeaway, an Indian restaurant, a Chinese takeaway, two cafés, a sandwich bar, a restaurant and a pub. These are already struggling in the current economic crisis.

The site will generate noise, disturbance, smells, pollution, littering and anti-social behaviour.

Unsociable hours of operation. 7 days a week, for 11 hours a day.

Poor relationship with the surrounding area.

Conflicts with the character of the village centre

The Parish Council believes there are better sites away from Bilbrook.

It was also noted that the plans propose the use of the County Highways Bus pull-in. This would need Staffs County Council approval.

Environmental Health (received 13/12/22, clarified via email 19/12/22) No objections. If the application is successful, then the business should contact Environmental Health for advice regarding all current food safety and health and safety legislation and associated guidance.

County Highways (received 8/12/22, clarified via email 16/12/22) Recommend acceptance. The proposed development is located in a residential area with an existing vehicular access to a parking area. The road is classified and subject to a speed limit of 30 mph. There are additional public parking facilities close by. Vehicular movements associated with the proposed use are similar to that of the previous use.

No comments from Severn Trent (expired 12/12/22)

Neighbours

For the sake of brevity, neighbour comments are summarised below. Comments are available in full on Public Access.

Five letters of support were received from neighbours citing the following reasons:

- Creation of jobs;
- Addition of a business to the village centre;
- Reuse of a derelict building

Eight letters of objection were received from neighbours citing the following reasons. It should be noted that five of the eight letters were from two individuals submitting supplemental comments.

- Concentration of food outlets within the village;
- Proposed hours of operation encouraging anti-social behaviour;
- Concerns over proposed waste disposal;
- Proposed design being an "eyesore";
- Concerns over traffic generation and lack of parking

Two letters, neither supporting or objecting to the proposed development, but querying how other commentators had knowledge of the potential tenant for the property.

Site Notice posted 24/11/22, expired 15/12/22

5. APPRAISAL

5.1 The application has been called to Planning Committee by Councillors Burdett and Sadler due to the following concerns:

- Unacceptable impact on highway safety.
- Lack of available parking.
- Proposed opening hours.

5.2 Key Issues

- Principle of development
- Impact on the character of the area
- Impact on neighbouring properties
- Highways/parking
- Representations

5.3 Principle of development

5.3.1 The proposal is located within an established mixed-use area that provides a range of services to the Bilbrook and extended Codsall area. Core Policy 8 of the Adopted Core Strategy encourages proposals that sustain, improve and enhance the vitality and viability of centres.

5.3.2 Further, Core Policy 7 of the Adopted Core Strategy notes the following:

- The focus for economic growth, development and investment will be on the Main Service Villages identified in the settlement hierarchy in Core Policy 1 (of which Bilbrook is identified);
- The Council will support measures to sustain and enhance the vitality and viability of village and neighbourhood centres;
- Employment development will be expected to contribute to the achievement of sustainable development. The priority will be for the re-use of previously developed land in sustainable locations, provided it is not of high environmental values; that is accessible by public transport, walking and cycling and development should be appropriate in scale and design to the location for which it is proposed.

5.3.3 Given that the application proposes to reutilise a closed business for a new enterprise that would employ ten full time employees and fifteen part time employees, within a Main Service Village centre that is accessible by public transport, it is my opinion that the application is in accordance with Core Policies 7 and 8 of the Core Strategy.

5.4 Impact on the character of the area

5.4.1 Policy EQ11 of the Core Strategy requires that new development "respect local character and distinctiveness, including that of the surrounding development and landscape [...] by enhancing the positive attributes whilst mitigating the negative aspects", and that "in terms of scale, volume, massing and materials, development should contribute positively to the street scene and surrounding buildings, whilst respecting the scale of spaces and

buildings in the local area." The Council's 2018 Design Guide has been adopted and amplifies the principles set out in Policy EQ11 of the Core Strategy.

5.4.2 Minor modifications are proposed to the external appearance of the building at No 2 Pendeford Mill Lane, but no drastic modifications are proposed such as additional storeys, extensions or freestanding signage. Whilst the existing building does not have architectural significance, the proposed would improve the external appearance from the current closed business that has become somewhat derelict. As Bilbrook does not have a Conservation Area and many of the businesses retain a similar commercial appearance (including similar extract ducts), I find that the proposed would contribute positively to the street scene and surrounding buildings, whilst respecting the scale of spaces and buildings in the local area. As such, there is no conflict with Policy EQ11 of the Core Strategy.

5.5 Impact on neighbouring properties

5.5.1 Policy EQ9 states that new development "should take into account the amenity of any nearby residents, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution)[...]and daylight".

5.5.2 Whilst there are dwellings in the area surrounding Pendeford Mill Lane, No 2 is distinctly located within the established commercial area with businesses on either adjacent side as well as on the northern side of the highway. Travelling westward, the intensity of business use increases at the Village Centre; travelling eastward, business use does continue approximately 150m to the east with the Bilbrook Fish Bar, a beauty salon and a grocer. There are of course aspects of any business that can impact neighbouring amenity but given the location of the proposed hot food takeaway within an established commercial area, it is my opinion that neighbouring amenity in this case would potentially only be impacted by the fumes associated with the cooking of the food.

5.5.3 The Planning Statement details the following ventilation/extraction equipment proposed: a steel extract flue, fresh air intake, water heater flue, toilet extract fan and two new louvres, most of which shall be provided along the building's northern elevation. Environmental Health has been consulted on the proposal and returned a recommendation of no objections subject to the business complying with all current food safety and health and safety legislation and associated guidance. As Environmental Health have determined that the proposed ventilation/extraction equipment proposed is acceptable, I do not have further concerns pertaining to the potential fumes and find the proposal to be in accordance with Policy EQ9.

5.6 Highways/parking

5.6.1 County Highways has been consulted on the application and has returned the following comment: " Recommend acceptance. The proposed development is located in a residential area with an existing vehicular access to a parking area. The road is classified and subject to a speed limit of 30 mph. There are additional public parking facilities close by. Vehicular movements associated with the proposed use are similar to that of the previous use."

5.6.2 The Planning Statement provided with the application indicates that dedicated parking is shared with the adjacent former bank, and the lay-by along Pendeford Mill Lane is predominantly to be used by delivery drivers and other commercial activities to support the operations of the business. The nearest bus stop is outside of the Woodman Inn, which is within 60 metres of the site. The Bilbrook train station is 0.4 miles to the west of the site.

5.6.3 The Adopted Core Strategy notes that for food and drink establishments, the expected cycle provision is one space per 60sq m of gross floor area. As such, the hot food takeaway proposed would be expected to provide three cycle spaces; per the request of the LPA, this has been provided on the amended block plan (received 2/12/22).

5.6.4 Whilst No 2 Pendeford Mill Lane cannot provide the number of car parking spaces specified within the Adopted Core Strategy for a hot food takeaway of its size, the following should be emphasized. Appendix Five of the Core Strategy states: "Where such development proposals do not make provision to the relevant parking standard then negotiations can be entered into to see if these could be achieved or even a suitable compromise reached where public safety will not be prejudiced. It is recognised, however, that the parking requirements are but part of the overall assessment of the planning merits of the proposal and the outcome can be a balance between all these considerations."

5.6.5 Given the sustainable location of the proposed hot food takeaway (in a village centre), its location along a footpath, its proximity to both bus and rail service, its proximity to public car parks within Bilbrook, as well as the cycle storage provided, it is my opinion that the amount of parking provided on the property should not prejudice the outcome of the application.

5.6.6 Considering the above, the sustainable location of No 2 Pendeford Mill Lane, paired with the recommendation of approval from County Highways; there are no outstanding highways/parking concerns that would dictate a recommendation of refusal for the application.

5.7 Representations

5.7.1 The concerns expressed by the Parish Council and neighbours have been noted and several have been addressed throughout the body of this report (traffic/parking, the appearance of the building, impact on the local economy). Any remaining concerns are addressed as follows.

5.7.2 There have been concerns identified that the bin storage area proposed for the northern side of the building will not be adequate for the business, which would result in waste and litter accumulating along the exterior of the building and within the public realm. As aforementioned, the LPA has not been provided with the proposed tenant of the building, but the applicant has proposed the bin storage area so it can be assumed they feel this is adequate for their business. If the application is approved, it would be appropriate to condition that the waste bins always remain within the bin storage area, except for the day of collection. If the application is approved and waste begins to accumulate within the public realm, then a complaint can be lodged with Environmental Health and dealt with under separate legislation.

5.7.3 There were also concerns that the proposed use would result in anti-social behaviour in particular related to the proposed opening hours of 11 AM - 11 PM. After considering the other businesses listed within the Parish Council's objection comment, I must recognise that the other takeaways within Bilbrook are open similar hours. Three hot food takeaways are open until 11 PM (with one open until midnight on certain days), and The Woodman Inn is also open until 12 PM. As such, the LPA is unable to find reason that the proposed use of No 2 Pendeford Mill Lane as a hot food takeaway would result in any more anti-social behaviour than the other existing takeaways within Bilbrook.

5.7.4 Related, a number of comments have been received with concerns about the parking/impact on traffic due to the number of food delivery businesses that would likely be collecting from a hot food takeaway. Again, I am unable to distinguish how delivery drivers accessing No 2 Pendeford Mill Lane would have a greater impact on the parking/traffic of Bilbrook, as compared to delivery drivers that are currently accessing the existing hot food takeaways within the Village (particularly given those located within a shopping parade that has limited parking).

6. CONCLUSIONS

6.1 The proposal represents sustainable development within an easily accessible location to Bilbrook and Codsall. Minimal modifications are proposed to the external appearance of the building, which would align with the existing character of the area. Given efforts made to address potential fumes and waste collection, the proposed will not have a material impact on neighbouring amenity. Whilst the concerns identified by the Parish Council and neighbours have been recognised, on balance the proposed change of use at No 2 Pendeford Mill Lane is acceptable and I therefore recommend approval of the application.

7. RECOMMENDATION - APPROVE Subject to Conditions

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.
3. Hours of operation for the business are limited to only between the hours of 11 AM - 11 PM, every day.
4. Waste shall be collected and stored within the bin storage area identified on C5308-PB09 revision C and shall only be wheeled outside on the day of waste collection. Upon collection of said waste, the bins shall be returned to the bin storage area as quickly as possible.
5. Materials used on the exterior of the building shall match those shown on approved plan C5308-A5-06 Proposed Elevations (received 11/12/22).
6. The development hereby permitted shall not be brought into use until the fume extraction and odour control system hereby approved has been installed, in full, at the premises. The approved fume extraction and odour control system shall thereafter be retained and remain in operation for the lifetime of the development.

Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.

3. In order to define the permission and to avoid doubt.
4. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
5. In order to define the permission and to avoid doubt.
6. To safeguard the amenity of the area in accordance with policy EQ9 of the adopted Core Strategy

Proactive Statement - In dealing with the application, the Local Planning Authority has approached decision making in a positive and creative way, seeking to approve sustainable development where possible, in accordance with paragraph 38 of the National Planning Policy Framework, 2021.



2 Pendeford Mill Lane, Bilbrook, Staffordshire WV8 1JB