

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

14th December 2023

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| Application No: | SMD/2023/0422 | |
| Location | Springfields Farm, Hulme Lane, Werrington, ST3 5BH | |
| Proposal | Conversion of former agricultural building to retail use and associated formation of parking area and vehicular access improvements (part retrospective). | |
| Applicant | Mr C Taylor | |
| Agent | Rob Duncan Planning Consultancy Ltd | |
| Parish/ward | Werrington | Date registered: 17.08.2023 |
| If you have a question about this report please contact: Chris Johnston tel: 01538 395400 ext. 4123 christopher.johnston@staffsmoorlands.gov.uk | | |

REFERRAL

The application is before committee due to the large number of representations received both in support of the application and objecting to the application.

1. SUMMARY OF RECOMMENDATION

APPROVE with Conditions

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The site is in the countryside to the south of Werrington, about half a kilometre from the village development boundary and which is reached via country lanes from the village. It comprises part of a farm, Springfield Farm, located on the east side of Hulme Lane. Within the site is a typical modern agricultural storage building (with a blockwork base and a mix of metal sheeting and timber cladding above), with a footprint of approx. 18 x 14 metres, which faces the road and the farm access, off the lane, which is also included in the red line application site and from where the building is clearly visible, being set back about 30m from the road. An access drive leads from the access to the front of the building where there is a yard and there is also a track around the north side of the building leading to rear hard-standings to the east of the building and also further south of the building. This rear yard area is also included in the application site. To the south of the building are other farm buildings between the front and rear yard areas and these are excluded from the application site. The farmhouse is a short distance to the south-west of the site and faces the lane. The site also includes part of a large field which lies to the north of the building. This part of the field has recently been hard-surfaced and lies directly to the north of the rear yard area and to the north-east of the building. To the north of the large field lie three detached dwellings next to the lane to the west. To the east of the field lies another farm accessed via a long farm track off the lane which

runs to the north of the field. More open land lies to the south and east of Springfield Farm and also to the other side of Hulme Lane to the west. The site is in the Green Belt.

3. THE APPLICATION AND DESCRIPTION OF THE PROPOSAL

3.1 This is a full planning application for the change of use the building to an ice cream shop serving the produce to visiting customers who stay and use the grounds for sitting out and leisure. The shop is called “Bobby’s”, advertised by a sign currently placed on the frontage of the building. The shop opened in May 2023 and the field to the north of the building has been used for the enjoyment of the customers and a playground with bouncy castles, outdoor seating, a sand pit and a goat pen. Post-and-rail fencing has been installed around the field and the goat pen and bordering the farm access. The hardstanding to the rear has been used for customer parking. The part of the field included within the application site has been used for overspill customer parking. Cladding and double doors have been installed on one half of the frontage leading to the ice cream counter. Metal doors/cladding remain on the other half. The change of use of the building and the use of the field as a play area and car park are unauthorised and the purpose of the application is to retrospectively approve and retain the ice cream shop use and parking area to the rear (with 15 parking spaces) and also to use the part of the field where the “overspill car park” area is located, as instead, an outdoor seating area for customers.

3.2 This is a “part-retrospective” application. The application is also for further proposed development which includes an indoor seating area for customers inside the building next to the ice cream sales counter and further timber cladding and new double doors on the remainder of the frontage, to lead to the proposed seating area and existing counter. The drawings also show spaces in the rear part of the building used for domestic storage (for the farmhouse). Also proposed is the creation of visibility splays at the site access along both sides of the lane to improve visibility for drivers leaving the site onto the lane. This would be achieved by removing the hedgerow to the north of the access and planting a new native species hedgerow further back from the road, retaining the space in front of it as a grass road-side verge.

3.3 The works and use of the site to be retained along with the proposed new changes of use of the field and further works are shown on amended plans. The original plans showed the application site to include the part of field used as a playground and seating area and also shows the retention of the existing sand pit and artificial grass area and also the retention of the adjacent recently hard-surfaced overspill parking area (and with less parking spaces shown in the yard area directly to the rear of the building). The application site has now been reduced in size to exclude the field used as a playground, which is now proposed to cease, along with the overspill car park which would instead be used partly as an outdoor seating area and with the north part returned to field.

3.4 The application is accompanied by a Planning Statement which give further details as follows:

The shop sells a range of produce, in particular locally produced ice creams, cakes,

cheese, pies and soft drinks and has proven to be very popular. The shop is open between the hours of 10:00 and 19:00 daily and employs six members of staff (4 full time equivalents).

The existing shop occupies a floor area of 40.5 square metres, and has an adjacent storage area occupying a floor area of 23.9 square metres. An area of indoor seating is proposed as part of this application, which will encompass an area of 49.9 square metres. The remainder of the building is to be used for ancillary domestic storage purposes associated with the applicant's existing dwellinghouse adjacent.

3.5 The application files including the drawings, report and other details of the proposal together with consultation and notification responses can be viewed on the Council website at:

<http://publicaccess.staffs Moorlands.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=173424>

4. RELEVANT PLANNING HISTORY

None.

5. PLANNING POLICIES RELEVANT TO THE DECISION

5.1 The Development Plan comprises:

Adopted Staffordshire Moorlands Local Plan - Sep 2020

5.2 The following Local Plan policies are relevant to the application:-

- SS1 Development Principles
- SS10 Other Rural Areas Strategy
- E1 New Employment Development
- TCR3 Retailing and other Town Centre uses outside Town Centres
- DC1 Design Considerations
- DC3 Landscape and Settlement Setting
- T1 Development and Sustainable Transport

National Planning Policy Framework (NPPF).- July 2021

Para 11: Presumption in Favour of Sustainable Development

Section 6: Building a Strong Competitive Economy

Section 7: Ensuring the Vitality of the Town Centre

Section 12: Achieving Well Designed Places

Section 13: Protecting Green Belt Land

6. CONSULTATIONS

6.1 A site notice was posted and displayed next to the site access on 5.9.23 inviting comments within 21 days from the date it was posted. Letters were also sent out to the nearest residential properties shortly after the application was received and 21 days was given for comments in response. Those properties and senders of objection letters were also notified of the amended plans and given 14 days in which to comment, on 20th October 2023.

Public response to consultation

6.2 Three-hundred and forty four letters of support have been received for the application and forty-nine letters of objection. There were a further forty-eight letters/emails received neither supporting or objecting to the application. Ten of the letters of objection were received following the notification of the amended plans. The objection letters raise the following concerns in response to the original plans:

- Traffic creation
- harm to highway safety on the lane
- harm to the Green Belt
- noise creation from people and vehicles/motorbikes
- impact on a natural spring
- signs placed over a wide area and flagpoles installed
- health and safety breaches arising from the playground and food sales
- no cycling or horse rider facilities
- no toilet facilities
- harm to trees
- harm to the ecological value of the area
- harm to the character of the area to the formation of a “new track” across fields
- invasion of privacy of nearby neighbours to the north

6.3 In response to the amended plans, further points raised in the objection letters as follows:

- insufficient parking provision
- spotlights installed to allow visitors in hours of darkness, causing light pollution and harm to the character of the area
- fires being lit on a regular basis causing air pollution
- the applicant will revert to the original plans leading to use of the field as a leisure area with associated noise
- there is now a hot food takeaway service

Werrington Parish Council

6.4 Response to the original plans:

Werrington Parish Council wish to SUPPORT the above application, but request that the following concerns are noted and addressed by any conditions set for approval.

Safety of Customers

The Parish Council have received numerous complaints regarding the safety of those visiting the premises in their current layout. As a result, several Councillors and myself as the Clerk, have visited the premises at different times. The primary concern is that customers and their children are queuing in the same area as vehicles entering and exiting the premises. There have been many near misses, where children have come close to being hit by a vehicle.

The main issue facing the applicant is that there is only one access point for both vehicles and pedestrians, entering and exiting the premises. Pedestrian access is not sectioned off, and the current building used to serve the ice cream is positioned between two narrow passageways that lead to the allocated parking. This is putting customers, and more concerning their children, in the same place as moving vehicles.

The Parish Council would recommend that an alternative vehicle entrance and exit point is created leading directly to the parking area, to separate pedestrians from moving vehicles. This would be in line with NPPF point 97, to promote public safety.

Highways

Complaints regarding the safety of those using the access road, Hulme Lane, have also been reported to the Parish Council. When the premises initially opened, without the relevant consents, the Parish Council were inundated with complaints of vehicles parked on the narrow, yet busy lane. Whilst the applicant has looked to address this situation with additional parking, currently greenbelt, the issue of cars queuing on, and entering and exiting the site, from a narrow, bendy lane, remains a cause for concern. Due to the positioning of the site, on a lane with no pedestrian footpath in either direction, those visiting need to do so by car or cycle.

The Parish Council feel that separate vehicle entrance and exit points would be beneficial in reducing queuing traffic in the lane and reduce the risk for drivers pulling in and out of the site. This would be in line with point 7.132 of the Local Plan, which looks to minimise traffic problems.

Finally, the Parish Council felt that had this application been received prior to the premises opening, the above issues would have been identified by yourselves and advice given as to how to best address them.

SCC Highways Authority

6.6 In response to the original plans:

Recommendation Summary: Conditional

Site Visit Conducted on: 13-Sep-2023

CONDITIONS

1. The development hereby permitted shall not be brought into use until the access drive rear of the public highway has been surfaced and thereafter maintained in a bound material for a minimum distance of 10m back from the carriageway edge in accordance with details to be first submitted to and approved in writing by the Local

planning authority. The access shall thereafter be surfaced in accordance with the approved details.

2. The development hereby permitted shall not be brought into use until the visibility splays shown on drawing 1845-03 Site Plan have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 900 mm above the adjacent carriageway level.

3. The development hereby permitted shall not be brought into use until the parking and turning areas, including overflow parking area, have been provided in accordance with the approved plans. The parking and turning areas shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

NOTES TO PLANNING OFFICER

Application is for retail use of former agricultural building. In effect an Ice Cream Parlour with some 'pop up' retail units. There also appeared to be a small childrens play area and some goats.

The existing access cannot be described as safe and reasonable for all users. Visibility is severely restricted. However, speed survey has been taken and an improvement in visibility is to be provided. This would improve safety for all users and is essential for the safe use of the access. It is recommended that the visibility splay be provided regardless of the outcome of this planning application.

Hulme Lane is a rural lane subject to 60mph speed limit. It is unlit and there are no footways. The site of the ice cream parlour is a farm. Hulme Lane is in places relatively narrow, however, two vehicles can pass each other on the majority of the lane as long as care is exercised. There are no restrictions on the use of Hulme Lane.

It is likely that visitors to the site will travel by car.

I understand that initially the parlour was busy and that it can be busy at certain times. Application form requests that the site will open 7 days a week. facebook page suggests this is not always the case. 7 day approval would cover all eventualities. The site is likely to be busy on a summer weekend, less so on a weekday in winter, for example. Highways have no objection to 7 day opening. Busy times are not likely to coincide with highway peak hours.

Site is located off a public highway. Visibility is proposed to be improved and this is conditioned above.

Any vehicle can reasonably use Hulme Lane.

Parking provision is compared to use class A1 (in SMDC Parking Standards), in the Planning Statement. A1 use would require 6 spaces, whereas a total of 25 are proposed. There is no clear use class for the associated activities - childrens play area, farm animals etc. Parking proposal appears reasonable for the intended use, in the absence of evidence to the contrary, where visitors may stay longer after purchasing ice cream.

The access has a narrow strip of block paving with gravel beyond. At the time of my site visit, gravel was being brought onto the highway. As the use of the site is commercial, bound surfacing should be extended to 10m into the site to reduce likelihood of loose material being brought onto the highway.

Internally it appears pedestrians and vehicles have to share some of the same space. Notably from the car park to the proposed retail unit and at the access and into the front field. While not ideal, vehicle speeds will be low and any visitor should be aware of pedestrians.

Route from the front of the building to the car park is not dimensioned, but appears tight for two vehicles to pass each other. One way system would be preferable but this would require the creation of tracks. This may be something to consider for the future when observations on vehicle movements are more clear and available.

Current records show that there was 1 personal injury collisions (PIC) on Hulme Lane within 215metres either side of the access in the previous five years. Although all PICs are regrettable, the overall volume of collisions does not suggest there are any existing safety problems that would be exacerbated by the proposed development, particularly with the proposed visibility improvement.

6.7 The comments of the local highways authority in response to the amended plans are as follows:

Recommendation Summary: Conditional

Site Visit Conducted on: 13-Sep-2023

CONDITIONS

1. The development hereby permitted shall not be brought into use until the access drive rear of the public highway has been surfaced and thereafter maintained in a bound material for a minimum distance of 10m back from the carriageway edge in accordance with details to be first submitted to and approved in writing by the Local planning authority. The access shall thereafter be surfaced in accordance with the approved details.
2. The development hereby permitted shall not be brought into use until the visibility splays shown on drawing 1845-03 Site Plan have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 900 mm above the adjacent carriageway level.
3. The development hereby permitted shall not be brought into use until the parking and turning areas have been provided in accordance with the approved plans. The parking and turning areas shall thereafter be retained unobstructed as parking and turning areas for the life of the development.
4. The development hereby permitted shall not be brought into use until details of the overflow parking area, previously shown on drawing 1845-03 have been submitted to and approved in writing by the Local Planning Authority. The overflow parking area

shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

NOTES TO PLANNING OFFICER

Application is for retail use of former agricultural building. In effect an Ice Cream Parlour with some 'pop up' retail units. There also appeared to be a small childrens play area and some goats.

The existing access cannot be described as safe and reasonable for all users. Visibility is severely restricted. However, speed survey has been taken and an improvement in visibility is to be provided. This would improve safety for all users and is essential for the safe use of the access. It is recommended that the visibility splay be provided regardless of the outcome of this planning application.

Hulme Lane is a rural lane subject to 60mph speed limit. It is unlit and there are no footways. The site of the ice cream parlour is a farm. Hulme Lane is in places relatively narrow, however, two vehicles can pass each other on the majority of the lane as long as care is exercised. There are no restrictions on the use of Hulme Lane.

It is likely that visitors to the site will travel by car.

I understand that initially the parlour was busy and that it can be busy at certain times. Application form requests that the site will open 7 days a week. facebook page suggests this is not always the case. 7 day approval would cover all eventualities. The site is likely to be busy on a summer weekend, less so on a weekday in winter, for example. Highways have no objection to 7 day opening. Busy times are not likely to coincide with highway peak hours.

Site is located off a public highway. Visibility is proposed to be improved and this is conditioned above.

Any vehicle can reasonably use Hulme Lane.

Parking provision is compared to use class A1 (in SMDC Parking Standards), in the Planning Statement. A1 use would require 6 spaces. Initially a total of 25 were proposed. This has been reduced to 15 with no explanation. There is no clear use class for the associated activities - childrens play area, farm animals etc. Parking proposal of 25 spaces appears reasonable for the intended use, in the absence of evidence to the contrary, where visitors may stay longer after purchasing ice cream.

Overflow parking from drawing 1845-03 should be reinstated. It would be prudent to allow for overflow parking within the site until actual parking demand can be established. Appropriate surfacing could be used on the overflow car park to prevent damage. Highways were made aware of this proposal before an application was made. Complaints were made regarding the access visibility and parking. Visibility is to be improved as part of this application. Parking is proposed and overflow parking is recommended by condition.

The access has a narrow strip of block paving with gravel beyond. At the time of my

site visit, gravel was being brought onto the highway. As the use of the site is commercial, bound surfacing should be extended to 10m into the site to reduce likelihood of loose material being brought onto the highway.

Internally it appears pedestrians and vehicles have to share some of the same space. Notably from the car park to the proposed retail unit and at the access and into the front field. While not ideal, vehicle speeds will be low and any visitor should be aware of pedestrians.

Route from the front of the building to the car park is not dimensioned, but appears tight for two vehicles to pass each other. One way system would be preferable but this would require the creation of tracks. This may be something to consider for the future when observations on vehicle movements are more clear and available.

Current records show that there was 1 personal injury collisions (PIC) on Hulme Lane within 215metres either side of the access in the previous five years. Although all PICs are regrettable, the overall volume of collisions does not suggest there are any existing safety problems that would be exacerbated by the proposed development, particularly with the proposed visibility improvement.

SMDC Environmental Health

6.8 In response to the original plans:

The Environmental Health Department recommend refusal of the application due to insufficient information being provided to address the impact this proposal will have on residential amenity. Further comments:

Noise: There is insufficient information provided to properly assess the proposal in regard to noise impacts on the nearest residential properties. The proposal includes a café, shop, parking area, external dining areas and outside play areas. This is a significant change to the use of the site with potential for significant adverse change to the noise environment. Specific concern is the use of the outside area for playground and entertainment purposes which are likely to generate significant noise increases with little potential for noise control and reduction.

We would expect given the potential for noise disturbance and the close proximity of residential neighbours that a site specific noise assessment is submitted. This assessment should include the impact of vehicles, customers, play area, entertainment/music, amplified sound, delivery/collection and plant/generator noise on neighbour amenity and where appropriate a scheme for noise mitigation. The assessment should be undertaken in compliance with BS4142:2014+A1:2019 Methods for rating and assessing industrial or commercial sound

6.9 In response to the amended plans:

The Environmental Health Department withdraw its recommended refusal due to revised information, subject to conditions being imposed which require a Construction and Environmental Management Plan (CEMP) to be submitted and approved for the further proposed works phase, a ground investigation in the event

of any unexpected contamination being found during the further works phase, the testing of any imported material/soil for the further works, the approval of all artificial lighting in use, the submission and approval of a scheme to deal with cooking smells, a restriction on plant and machinery noise and a restriction on amplified voice and music. Further comments were made as follows:

The site area has been significantly reduced including the removal of the play area. The removal of the play area and introduction of a buffer zone between the retail unit and NSRs should reduce the most significant adverse noise impacts of the development. We would further recommend noise controlling conditions are imposed to ensure operational noise does not compromise neighbourhood amenity. Although no noise assessment was submitted the conditions below and amendments to the site plan address Environmental Health concerns.

Severn Trent Water

6.10 No objection.

SMDC Waste Collection Service

6.11 No issues regarding waste collections.

7. OFFICER COMMENT AND PLANNING BALANCE

Introduction

7.1 The main issues with the proposal are as follows:

- The impact on the openness of the Green Belt
- The principle of the changes of use
- The impact on the character and appearance of the area.
- The impact on residential amenity.
- The impact on highway safety.

Background

7.2 The change of use of agricultural buildings, and any land within their curtilage, into retail uses, can be undertaken without needing full planning permission i.e. under permitted development, under Part 3 (“Changes of Use”) Class R (“Agricultural buildings to a flexible commercial use”) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the “GPDO”). Commercial uses in this case include “Class E” (Commercial Business or Services) uses as set out in the Use Classes Order and this includes retail uses. The building has been changed to a shop selling ice cream and there is a proposal as part of this application to include indoor customer seating. Both a retail use and a retail use involving the sale of food and drink where consumption of it is done on the premises falls under Class E. Under Part 3 Class R of the GPDO, such a change of use can be undertaken under permitted development where the building was last used for agricultural purposes and the floorspace is less than 500 sq.m. The floorspace of

the shop with proposed indoor customer seating is 115 sq.m.

7.3 However, one of the conditions under Class R, where the unit does not exceed 150 sq.m, requires that before the change of use occurs, details are submitted to the Council stating the date the site will begin to be used for any of the flexible uses and the nature of the use and to provide a plan indicating the site and which buildings will have the change of use. This was not undertaken by the applicant and therefore the change of use is unauthorised and that a full planning application is required to retrospectively retain the new use. This is the purpose of the application.

7.4 The application for full planning permission must therefore be determined against the Development Plan for the District i.e. the Local Plan, with the relevant policies listed above and also the government planning guidance contained within the NPPF.

Whether or not the proposal amounts to inappropriate development in the Green Belt.

7.5 The site is in the Green Belt and Policy SS10 of the Local Plan, the strategy for the countryside, states there will be strict control over inappropriate development in the Green Belt. The NPPF in paragraphs 149 and 150 lists the exceptional types of development which are not inappropriate in the Green Belt and which are therefore not harmful to its openness. The re-use of buildings in the Green Belt is listed, providing they are "permanent and substantial". It is considered the building, due to its solid construction and size, is clearly permanent and substantial and therefore its change of use is not inappropriate development in the Green Belt which is not harmful to its openness.

7.6 The application is also for the use of the existing yard area to the rear for customer parking and the use of part of the adjacent field to the north for customer outdoor seating which would involve the placing of moveable items for this purpose e.g. picnic tables. The change of use of land is also listed under paras 149 and 150 and this would be deemed to not be inappropriate development providing the openness of the Green Belt is preserved and does not conflict with the purposes of including land within it. It is considered the use of the yard area for parking would not impact on the openness of the Green Belt as this area has a hard-surface and no works are required to change this area into parking spaces. It is partially enclosed and screened from the road by existing buildings and from the countryside to the rear the parked vehicles would be read against the backdrop of those buildings. The outdoor seating area similarly would not involve any significant works. The placing and removal of moveable items not fixed to the ground is not defined as development and any enclosure fencing under 2m in height can be erected under permitted development in any case, similar to fencing to subdivide an agricultural field. Such fencing has a minimal land take-up and is not considered to impact on Green Belt openness.

7.7 The land proposed for outdoor seating together with the rest of the field to the north of it were hard-surfaced to form an overspill car park for the new ice cream shop. This is unauthorised development and is considered to amount to harm to the openness of the Green Belt. However, this will be removed and the land reinstated

and this can be achieved via a planning condition requiring this before the outdoor seating area is brought into use.

7.8 Whilst the new use of the building was in operation over the summer months, the field next to the road to the north of the access was used as a play area and outdoor seating area with a sand pit, bouncy castles and outdoor seating. This also amounted to an unauthorised change of use of the land and was also considered to amount to harm to the openness of the Green Belt due to this intensification of use. However, this use of the land is to cease, with a play area removed from the scheme and instead a smaller outdoor seating area to be proposed as shown on the amended plans. The field used for the play area has been removed from the application site which has been reduced and drawn around only the area to include the customer car park, building, access, the part of the field to be used for outdoor customer seating and the grass area to the north of the access to be left as grass and unobstructed for the purposes of providing clear visibility splays for drivers using the access.

7.9 The access improvements do not impact on the openness of the Green Belt as no actual building works would be involved. The planting of a replacement hedge (behind the proposed visibility splay) is not classed as development.

7.10 Overall, the amended proposal would not amount to inappropriate development in the Green Belt and would therefore, by definition in the NPPF, not amount to harm to its openness and in this respect would comply with both Section 13 of the NPPF and Policy SS10 of the Local Plan.

The Principle of Development and Sustainability

7.11 Policy SS10 of the Local Plan, the strategy for the countryside, aims to enable the limited expansion or development of business for employment uses where a rural location can be justified and also supports the diversification of existing farm enterprises. It is uncertain if the property could be classed as an “an existing farm enterprise”. However, Policy E1, “New Employment Development” does state that schemes involving the re-use of rural buildings for commercial enterprise, will be considered favourably where the proposed use does not harm the building’s character and/or the character of its surroundings. The building is a typical modern farm storage building with no real “character” or historic or architectural merit. The proposal also includes some cladding enhancements to the building which would not harm the character or appearance of the area. The only other visible changes from the road and public footpaths is the use of part of a former field for customer seating and the removal and replacement of a hedge further back from the road to improve visibility for drivers at the access. The latter works would lead to a wide grass highway verge in front of hedgerow but this is not considered out of keeping with the rural nature of Hulme Lane. The outdoor seating area would lead to occasional long-distance views from the road in front of the access, through a post-and-rail fence, of outdoor seating e.g. picnic tables and customers seating, walking or standing particularly during the summer months and it is not considered this would amount to significant harm to the character and appearance of the area. The proposed car park is on an existing hard-standing to the rear of the building, out of sight from the road.

7.12 Policy SS10 also seeks to limit uses which generate a substantial number of regular trips in areas that are not well served by public transport. It is recognised that despite being close to the large village of Werrington to the north, a majority of visitors arrive to the site by car. There is no public transport running past the site and although the village can be deemed to be within walking distance of Werrington, the walk from the village to the site is along country lanes with no footways and where sections of the carriageways of the lanes leading to the site are enclosed by hedgerows. This would discourage walking as a means to reach the ice cream shop and favour the use of the car and therefore lead to emissions. The site is not regarded as being in a sustainable location. However, it needs to be considered that changes of use from farm buildings to retail where the building floorspace is less than 150sq.m can be undertaken under permitted development without full planning permission via the submission of information of an opening date, type of use and a location plan. The planning legislation in the GPDO therefore deems such changes of use of units of this size to be acceptable in terms of environmental impact. Furthermore, it is considered that the large play area, clearly prominent from the road, operating over the summer with bouncy castles and a sandpit and outdoor seating, amongst other items, will have attracted increased numbers of visitors who will have arrived by car and will have led to significant volumes of traffic going to and from the site. As the play area is to be removed and therefore a significant part of the attraction of the new use to visitors, along with it, this is considered to have the potential to reduce the volume of car journeys and also the journey distances as it becomes more of a “low key” local attraction.

7.13 Policy TCR3 relates to “town centre uses” e.g. shops, outside of the town centres and restrict such uses out of town centres in order to protect the vitality and viability of town centres which are also much more sustainable locations for new retail uses than rural areas which would attract visits via private transport. However, the policy only requires an impact assessment (on the town centres) for retail proposals involving new units of over 200 sq.m, well in excess of 115 sq.m of floorspace to be provided for the ice cream shop use.

7.14 Overall, the principle of the new use in this location, on the basis of the amended scheme, is acceptable and in line with planning policies and planning legislation which encourages the appropriate re-use of suitable rural buildings in the interests of the local rural economy and employment generation.

The impact on the character and appearance of the area

7.15 As discussed above, the amended application, restricting works to new cladding of the building, change of use of a rear yard to a parking area and change of use of part of a field, no bigger than the footprint of the building (the GPDO does allow the change of use of a building and its “curtilage”, a limited area around and connected to the use of the building) into a sitting out area and together with the hedgerow relocation, would not significantly harm the character and appearance of the area and would therefore comply with policies DC1 and DC3 of the Local Plan.

The impact on residential amenity

7.16 A large number of objection letters were received from nearby residential properties which outlined noise and other forms of pollution i.e. disturbance from artificial lighting, as issues. The use of the field as a large play area with bouncy castles and sitting out areas has unsurprisingly led to considerable noise and disturbance affecting local residents. However, this has been removed from the application and instead a new and smaller sitting out area is proposed which is further from the nearest dwelling outside of the farm property. Unlike the large play area, an outdoor seating area is more associated with quiet enjoyment. This would be at least 50m from the nearest dwelling outside of the property which is to the north-west, facing the lane. There may be some noise from vehicles arriving at the ice cream shop and leaving, including from engines and car doors and the sound of voices from customers especially using the proposed sitting out area, but due to the nature of the amended development and the locations and distances away of other residential properties in the area, the new use would not lead to significant harm to residential amenity, especially due to the seasonal nature of the use and the premises being open during the day and not at anti-social hours. The Environmental Health Section does not raise an objection to the application, mainly due to the removal of the play area from the scheme. Conditions are recommended to control any noise from plant/machinery, cooking smells (not thought to be significant as it is mainly cold food on offer) and external lighting. It is considered that with the safeguard of the recommended conditions, the impacts on the residential amenities of nearby residents will not be significantly harmful and the application is therefore acceptable in this respect and complies with Policy DC1 of the Local Plan.

The impact on highway safety

7.17 A large number of objection letters were received outlining highway safety concerns. The current access is deemed to be substandard with a poor level of visibility. However, the application includes the setting back of the hedgerow to the north of the access and the reduction of the height of the boundary to the south (to 600mm) which would allow the required visibility splays of 72m to the north and 76m to the south, on land within the applicants control. This is deemed to amount to a significant improvement by the local highways authority which does not object to the application. Although it is recognised that customers will mostly arrive by car, the surrounding lanes, although narrow in places, are still able to allow two cars to pass at the same time and that traffic to and from the site, is unlikely to be exacerbating the busier rush hour traffic, with the new use expected to be busiest during school holidays and at weekends.

7.18 With regard to parking provision, based solely on the internal size of the shop, the Council's parking standards would require a minimum of just six parking spaces. However, it is accepted that over the Summer months with the play area being in operation, that the parking demand would have been far higher than six spaces, particularly with visitors staying longer than the average shop customer, to sit out, enjoy the products and the facilities. The original submission showed a recently hard-surfaced area for an overspill car park and the amendments to the application, involving the removal of the overspill car park, have reduced total parking provision from 25 to 15. The play area will be removed but the sitting out area, despite being smaller than the play area and the creation of a proposed indoor seating area, will still attract customer stays of a significant length. The local highways authority

consider that ten overspill spaces should be re-instated/created and that this can be achieved by way of a planning condition. It is considered there are areas of the farm, other than the former field to the north, where this could be provided, particularly on existing hard-standings to the east and west of the range of farm buildings to the rear of the farmhouse and which adjoin the car park and internal access way and where visual impact would be much less than on an open field (and protection of the openness of the Green Belt). It is therefore considered the overspill car parking arrangements can be achieved by way of a planning condition.

7.19 With regard to safety within the site itself, a concern raised by the Parish Council and objectors, this is a more private health and safety matter rather than a material planning consideration (as it does not relate to the safety of a public highway). The layout is such that pedestrians and vehicles had to share some of the same space, particularly to the front of the building where the entrance to the ice cream shop is and also where the vehicular access is located. The car park is to the rear and the play area was also to the front as well as the ice cream shop. The access way, where it loops around the building to the rear car park is only just wide enough for two cars to park (there is also turning space in the front yard area) and not really suitable for pedestrians. However, the play area has been removed from the scheme and the outdoor seating area has been moved directly adjacent to the car park, to the north of it, avoiding the need to walk on the vehicular access way to the previous outdoor seating area (where the play area was located). Furthermore, it is noted there is a rear entrance into the building, directly off the car park, leading straight to the proposed indoor seating area and ice cream counter. Whilst the local highways authority note that the layout is not ideal in terms of vehicular and pedestrian movement and that a one-way system would be preferable, vehicular speeds once inside the site will be low. It is not unusual at any premises for pedestrians and vehicles to share space within a carpark. A reason for refusal cannot be sustained on the basis of the safety of pedestrians within the property, but the amended layout is better for avoiding any potential pedestrian to vehicle conflict and an informative can be added requesting that the current rear entrance to the building be utilised for users of the rear car park to avoid walking on the vehicular access.

Conclusion and Planning Balance

7.20 Despite the concerns over the unsustainable location of the site and potential traffic generation along country lanes, the planning legislation (the GPDO) allows the change of use of former agricultural buildings into retail and food and drink uses and where this is less than 150 sq.m, as is the case with the ice cream shop together with the proposed indoor seating area, can be undertaken under permitted development via the prior submission of information about the proposed new use, without the requirement for any further assessment by the Council, including the assessment of traffic, highway safety and residential amenity impacts. A full application was submitted for this particular retail use because the new use was commenced and the provisions of the GPDO cannot be utilised retrospectively.

7.21 Policy SS10 of the Local Plan, the strategy for the countryside, aims to enable the limited expansion or development of business for employment uses where a rural location can be justified and also supports the diversification of existing farm

enterprises. It is uncertain if the property could be classed as an “an existing farm enterprise”. However, Policy E1, “New Employment Development” does state that schemes involving the re-use of rural buildings for commercial enterprise, will be considered favourably where the proposed use does not harm the building’s character and/or the character of its surroundings.

7.22 The amended application, involving the change of use of a suitable building with no extensions, the re-use of an existing rear yard as a parking area and the creation of an outdoor seating area on part of an adjacent field, no larger than the footprint of the building, would not amount to inappropriate development in the Green Belt and would not harm it’s openness. The proposal is acceptable in highway safety terms and would lead to an improvement in this respect as proposed works around the access will sufficiently increase visibility along the lane for drivers using the site. Parking provision exceeds the Council parking standards and whilst it is accepted that the new retail use will generate longer than average stays by visitors, who can sit out after purchasing, there is sufficient excess space on existing yard areas to provide overspill parking where needed, by way of a planning condition. The removal of the use of a field as a play and sitting out area will sufficiently reduce noise and disturbance affecting the nearest residential properties. Instead, a smaller outdoor seating area with no play equipment will be provided on the former overspill car park via the removal of the unauthorised hardstanding (and return to field), which does not lead to any noise and disturbance concerns. The amended proposal will not lead to any significant harm to the character and appearance of the area or the environment in general and would provide local economic and employment benefits. The amended proposal, with the safeguard of conditions to ensure the avoidance of harms to residential amenity and highway safety, is therefore deemed to be acceptable and would therefore comply with the Council’s Local Plan and the NPPF.

8. RECOMMENDATION

A. That the application be APPROVED subject to the following conditions:

1. The development hereby approved, including the building materials specified, shall be carried out in complete accordance with the submitted amended plans and specifications as follows:-

**Location Plan 1845 05 Revision A
Site Plan 1845 03 Revision A dated 18.10.23
Block Plan 1845 04 Revision A
Elevation and Layout Drawing 1845 02**

Reason:-

To ensure that the development is carried out in accordance with the approved plans, for clarity and the avoidance of doubt.

2. There shall be no sales from the site other than cold food and drink and no hot food and drink shall be available for purchase except for hot drinks and pies.

Reason:-

To avoid an intensification of the use to the detriment of highway safety and residential amenity and the character of the area.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification), no further development as specified in Part 3 (Changes of Use) shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason:-

To enable the Local Planning Authority to control the development and so safeguard the character and amenities of the area.

4. Within four months of the date of the Decision Notice, all hardstanding areas within land edged blue to the north of the site and within the area shown on the approved Site Plan as External Seating Area, together with the sandpit in the land edged blue, shall be removed from the land edged red and blue and the land shall be reinstated to its former grass/turf condition.

Reason:-

In the interests of the character and appearance of the area and the openness of the Green Belt.

5. Within four months of the date of the Decision Notice, the access drive rear of the public highway has been surfaced and thereafter maintained in a bound material for a minimum distance of 10m back from the carriageway edge in accordance with details to be first submitted to and approved in writing by the Local planning authority. The access shall thereafter be surfaced in accordance with the approved details for the lifetime of the development.

Reason:-

In the interests of highway safety.

6. Within four months of the date of the Decision Notice, visibility splays shown on drawing 1845-03 Revision A Site Plan shall be provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 900 mm above the adjacent carriageway level.

Reason:-

In the interests of highway safety.

7. There shall be no removal or alteration of dry-stone walls from the land edged red and blue as shown on the approved drawings, other than what is required in order to provide the visibility splays in Condition 6 of this Decision Notice.

Reason:-

In the interests of the character and appearance of the area

8. Within four months of the date of the Decision Notice, the new hedgerow shown in the approved Site Plan shall be provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- Planting plans
- Written specifications (including cultivation and other operations associated

with plant and grass establishment)

- Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate

Reason:-

To ensure the appropriate landscape design and in the interests of the visual amenities of the area.

9. The implemented new hedgerow shall be subsequently properly maintained in accordance with good horticultural practice; any plants which are removed, die, become diseased or otherwise fail to establish within 5 years of planting shall be replaced during the next available planting season and the replacements themselves shall then be properly maintained.

Reason:-

To ensure the appropriate landscape design and in the interests of the visual amenities of the area.

10. Within four months of the date of the Decision Notice, parking and turning areas shall be provided in accordance with the approved plans. The parking and turning areas shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

Reason:-

In the interests of highway safety.

11. Within four months of the date of the Decision Notice, additional overflow parking areas shall be provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The overflow parking area shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

Reason:-

In the interests of highway safety.

12. The site shall not be open to customers outside of the following hours:

1000 to 1900

Reason:-

In the interests of the character and amenities of the area.

13. No further development hereby permitted shall be undertaken until a Demolition and Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority, which shall include the following details:-

- I. the hours of work, which shall not exceed the following: Construction and associated deliveries to the site shall not take place outside 08:00 to 18:00 hours Mondays to Fridays, and 08:00 to 13:00 hours on Saturdays, nor at any time on Sundays or Bank Holiday;
- II. the arrangements for prior notification to the occupiers of potentially affected properties;
- III. the responsible person (e.g. site manager / office) who could be

contacted in the event of complaint;

- IV. a scheme to minimise dust emissions arising from construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The approved dust suppression measures shall be maintained in a fully functional condition for the duration of the construction phase;
- V. Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment,

All works shall be carried out in accordance with the approved details. Any alteration to this Plan shall be approved in writing by the Local Planning Authority prior to commencement of the alteration.

Reason:-

To protect the amenities of the area.

14. In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. Development should not commence further until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exist to any identified receptors, development shall not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, and is subject to the approval in writing of the Local Planning Authority.

Reason:-

To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

15. No top soil or fill material is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development; a suitable methodology for testing this material should be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing to by the Local Planning Authority.

Reason:-

To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health,

controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

16. Details of any floodlighting and external lighting at the site shall be submitted to and approved in writing by the Local Planning Authority within three months of the date of the Decision Notice. The floodlighting and external lighting shall be provided in exact accordance with the approved details for the lifetime of the development. The lighting incorporated into this site in connection with this application shall not increase the pre-existing illuminance or cause at the adjoining light sensitive locations (residential) when the light (s) is (are) in operation.

Reason:-

To protect the local amenities of the local residents by reason of excess of luminance.

17. Within three months of the date of the Decision Notice, a scheme containing full details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be submitted to and approved in writing by the local planning authority. The works detailed in the approved scheme shall thereafter be installed in their entirety for the lifetime of the development. The equipment shall be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the local planning authority. The equipment shall be installed and in full working order to the satisfaction of the Local Planning Authority. (Any system installed must be by suitably qualified competent engineers and the canopy must meet all relevant Health and Safety requirements including the use of Gas Interlocks. The provision of a commissioning certificate issued by a Gas Safe registered engineer should be available for inspection.)

Reason:-

To ensure that unsatisfactory cooking odours outside the premises are minimised, in the interest of the amenity of occupiers of nearby properties

18. The machinery, plant or equipment including air condition and ventilation systems ("machinery") installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that the noise generated by the operation of the machinery shall not increase the background noise levels during day time expressed as LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [15 mins] during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142 (2014 +A1:2019)(Method for Rating and assessing industrial and commercial sound)

Reason:-

To safeguard the amenity of local residents and that of the surrounding area from noise disturbance.

19. No means for the amplification of voice or music shall be installed for use outside of the building in the application site or for onward external transmission. Any broadcast or background music played inside the building shall at all times be set at a level that will ensure that it is inaudible outside of the building.

Reason:-

To safeguard the amenity of local residents and that of the surrounding area from noise disturbance.

20. The hatched area in the approved Site Plan shown as “External Seating Area” shall be used for no other purpose other than as an outdoor seating area for customers of the approved new use of the building on site and all items used for this purpose in this area shall be moveable non-fixed items.

Reason:-

In the interests of the openness of the Green Belt and the visual amenities of the area.

Informatives

1. An application for Full Advertisement Consent is required for the existing signage at the site and the applicant is advised to submit this to the Council as soon as possible.

2. The applicant is requested to use the rear entrance to the building (facing east) for customers using the car park to access the ice cream shop and internal seating as this is considered safer for customers than using the access way to gain access to the main entrance at the front where there may be conflict between pedestrians and vehicles.

3. The applicant is requested to remove any outstanding non-fixed items including marquees, bouncy castles/inflatable play equipment, outdoor seating and bins from the land edged blue in the approved drawings but excluding the residential curtilage of the farmhouse, unless this is required in connection with agricultural uses of the land .

B. In the event of any changes being needed to the wording of the Committee’s decision (such as to delete, vary or add conditions/in formatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee’s Decision.

