



PLANNING COMMITTEE: 23 August 2011
DIRECTORATE: Planning and Regeneration
HEAD OF PLANNING: Susan Bridge

N/2011/0545 **Change of use from shop (Use Class A1) to takeaway/restaurant (Use Class A3/A5) and installation of extraction ducting flue system at 1 Lorne Road, Northampton**

WARD: Castle

APPLICANT: Mr. J. Arumainathan
AGENT: Mr. A. Ay

REFERRED BY: Head of Planning
REASON: Council owned property

DEPARTURE: NO

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

1.1 **APPROVAL** with conditions for the following reasons:

1.2 The proposed use as a takeaway (Use Class A5) will not adversely impact upon the amenity of neighbouring properties or the area as a whole; will not lead to unacceptable traffic problems; and will not be detrimental to the shopping character of a Centre, in accordance with Policy R9 of the Local Plan.

2. THE PROPOSAL

2.1 Permission is sought for the change of use from retail (Use Class A1) to takeaway restaurant (Use Class A3/A5), together with extraction system.

3. SITE DESCRIPTION

- 3.1 One of a three-unit single storey frontage located in a Local Centre. One of the units is in use as a betting office, and the other as a convenience store. The adjoining Barrack Road frontage of this Centre comprises a delicatessen and a restaurant/takeaway. The site is surrounded by residential use, although there are several other commercial uses interspersed in the vicinity, and it is adjacent to the Boot and Shoe Quarter Conservation Area. Behind the site is a parking/storage yard for the units, together with a garage block.

4. PLANNING HISTORY

- 4.1 73/1350 – 6 shops on development site, corner of Barrack Road and Lorne Road – approved.
N/2001/1052 – change of use from shop to offices and drop-in centre – approved
N/2002/1512 – change of use of 39 Barrack Road to restaurant/takeaway - approved

5. PLANNING POLICY

5.1 Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the East Midlands Regional Plan, the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997.

5.2 National Policies:

PPS1 – Delivering Sustainable Development
PPG23 – Planning and Pollution Control
PPS4 – Sustainable Economic Growth

5.3 Northampton Borough Local Plan

E20 – New Development
E26 – Conservation Areas
R9 – Change of use from shops in District and Local Centres

6. CONSULTATIONS/ REPRESENTATIONS

- 6.1 **Highways Authority** – no observations.
- 6.2 **NBC Environmental Health** - Objects to application on grounds of loss of amenity due to odour. Premises are single storey, surrounded by higher buildings on 3 sides. Concerns that it will not be possible to position extraction ductwork high enough to promote good dispersion of cooking odours and therefore a high level of odour abatement will be required. Given the potentially high purchase and running costs of such abatement

equipment, concerns as to whether this would enable the business to run at a profit.

6.3 **Northamptonshire Police** – no concerns received from Safer Communities Team.

6.4 Notification letters to all surrounding properties (24 in total) were sent and a site notice posted on the property. One representation was received from **6 Lawrence Court**, commenting on litter, loitering/noise, and tidiness of the rear yard.

7. **APPRAISAL**

7.1 This Council-owned property has been vacant for 5-6 years. The previous use as offices/drop-in centre commencing from 2001 for community service volunteers inured for the personal benefit of the applicant only, not for the land, with the permitted use now reverted back to A1 retail.

7.2 The unit has been marketed by since 2005 by the installation of a lettings board, advertising in local paper, placing the premises on the commercial property register which is sent out to parties looking for commercial premises, and by placing details on the property web site. Little interest has been shown in the unit for retail use.

7.3 As the site is located in a Local Centre as identified in the Local Plan, this application is assessed against Policy R9 which states that planning permission will not be granted for change of use from shops in local centres where (a) it would lead to unacceptable traffic problems; (b) it would adversely affect the amenity of the neighbouring properties or the area as a whole; or (c) it would be detrimental to the shopping character of a centre or part of a centre by an unacceptable increase in the number of non-shop uses or increasing the length of frontage in non-shop use to an unacceptable proportion of the total frontage.

Traffic

7.4 No comments/objections have been received from the Highways Authority. On street parking is available in this location with parking bays directly adjacent, and additional on-street parking available along Lorne Road. It is also noted that the site is within easy walking distance from the surrounding residential areas. Therefore the proposal would not give rise to highway concerns and is in accordance with Policy R9 in this regard.

Amenity

7.5 The main issues when considering impacts of a takeaway on neighbouring amenity are noise, fumes, litter and the perception that the takeaway use can exacerbate antisocial behaviour.

- 7.6 In assessing whether noise and fumes from the extraction system will have a detrimental impact upon residential amenity, it is noted that the closest dwellings (flats) are 20m and 27m away from the rear of the site. Environmental Health have objected to this application on grounds of loss of amenity due to odour, stating that a high level of abatement may be needed. This information has been communicated to the applicant/agent, who still wishes to proceed with the application. This matter is to be controlled by a condition on any consent, requiring the approval of the extraction system prior to the use commencing. Whilst the comments of the Environmental Health service are noted, the cost of a mitigation scheme is a commercial decision for the applicant. Provided the mitigation is controlled by condition, this cannot reasonably justify the refusal of the proposal.
- 7.7 Verbal comments from Northamptonshire Police indicate that the area has a high incidence of crime and antisocial behaviour. The benefits of bringing this commercial unit back into use need to be weighed against the possibility that the use might cause an increase in antisocial behaviour. It is considered that the vitality of the Local Centre will be improved by bringing this unit back into commercial use, and that this outweighs any adverse impact it may cause due to increased antisocial behaviour. Moreover, by bringing greater life and activity to the locality, the use could have a positive impact on crime and safety. A condition limiting opening hours is recommended (to be the same as the adjacent Indian restaurant), and also an informative note regarding the duty of the applicant to keep the immediate area clear of litter. (It is noted that there is a litter bin in front of this unit, and also one round the corner in front of the Indian restaurant on Barrack Road).

Shopping Character

- 7.8 Given that this is a very small Local Centre with only five units, and given that this unit has remained empty since 2005, it is considered that bringing this unit back into use will enhance the vitality of the Centre. Two of the units are in retail use, and the proposed takeaway use Class A5 also allows for A3 (restaurant), A2 (financial and professional services), and A1 retail as a permitted change.

8. CONCLUSION

- 8.1 It is considered that the benefits of bringing this unit back into commercial use outweigh possible detrimental impacts, and accordingly it is recommended that the application be approved with conditions.

9. CONDITIONS

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

(2) Before the development hereby permitted commences, a scheme shall be approved in writing by the Planning Authority that specifies the provisions to be made for the collection, treatment and dispersal of cooking odours and the maintenance of the abatement plant. The approved scheme shall be fully implemented prior to the development coming into use and be maintained thereafter.

Reason: In the interests of the amenity of the surrounding locality and to secure a satisfactory standard of development in accordance with the advice contained in PPS23 Planning and Pollution Control.

(3) Before the development hereby permitted commences, a scheme shall be approved in writing by the Planning Authority that specifies the provisions to be made for the collection, treatment and disposal of fats, oils and grease (by the provision of grease interceptors to BS EN 1825:2002 standards) and the maintenance of the plant. The approved scheme shall be fully implemented prior to the development coming into use and shall be maintained thereafter.

Reason: To secure a satisfactory standard of development in accordance with the advice contained in PPS23 Planning and Pollution Control.

(4) The premises shall be open only between the hours of 0800 and 2300 on any day.

Reason: In the interests of the amenities of the occupiers of nearby properties in accordance with Policy R9 of the Northampton Local Plan.

(5) Details of the provision for the storage of refuse and materials for recycling shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, implemented prior to the occupation or bringing into use of the building(s) and thereafter maintained.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy E20 of the Northampton Local Plan.

Informative Notes:

- Please be advised that the applicant is responsible for maintaining that the area around their establishment is free from litter caused by their activities.
- Planning permission is required for the installation of a security grill or shutter to the shop front.

10. BACKGROUND PAPERS

10.1 None.

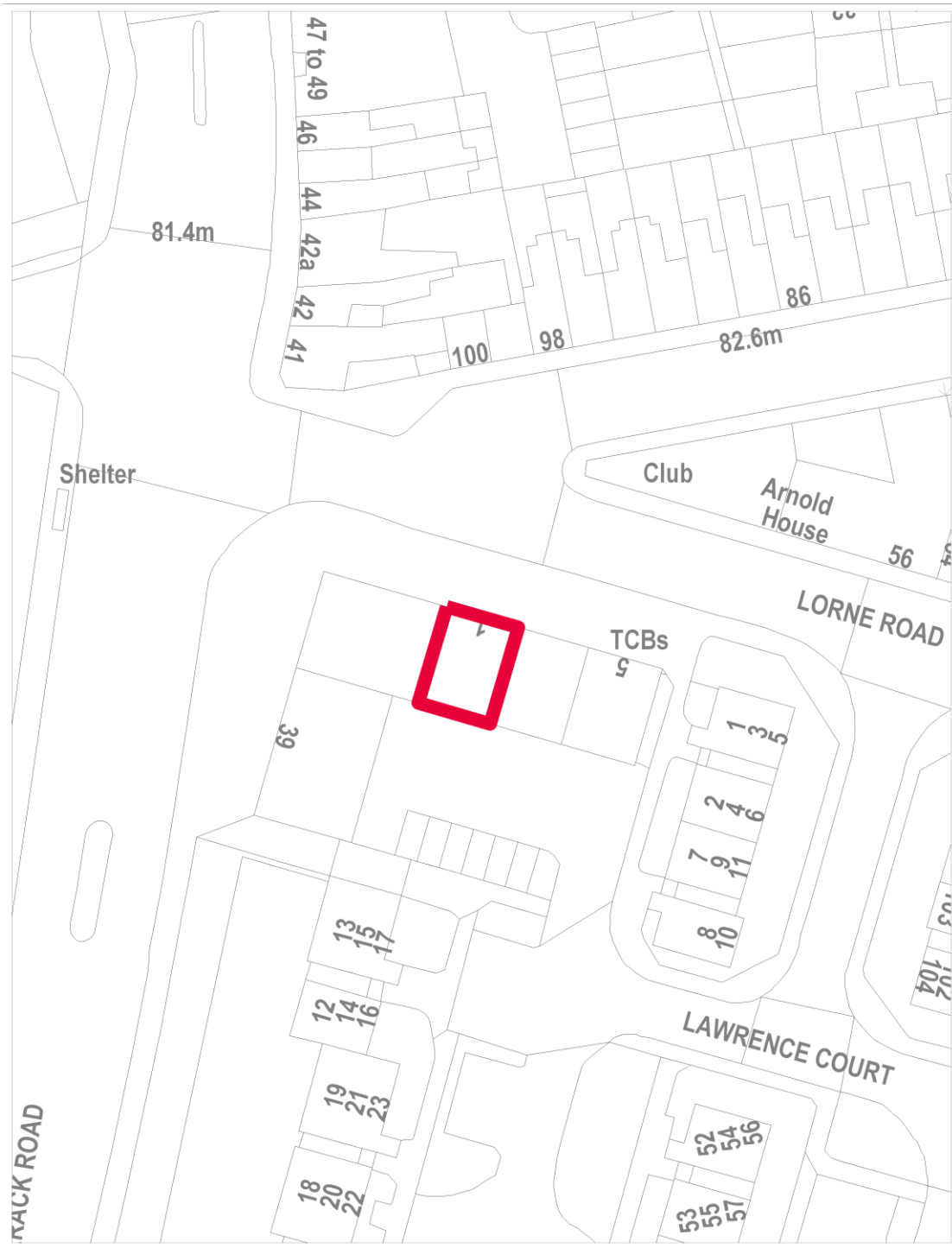
11. LEGAL IMPLICATIONS

11.1 None

12. SUMMARY AND LINKS TO CORPORATE PLAN

12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.

Position:	Name/Signature:	Date:
Author:	E. Williams	22/7/2011
Development Control Manager Agreed:	G Jones	02/8/2011



Name: LZ
 Date: 11th August 2011
 Scale: 1:500
 Dept: Planning
 Project: Site Location Plan

Title
1 Lorne Road

Produced from the 2008 Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence number: 100019655