

<b>Date of Meeting</b>	30th May 2017
<b>Application Number</b>	16/09793/FUL
<b>Site Address</b>	90 Fisherton Street, Salisbury, Wiltshire, SP2 7QY
<b>Proposal</b>	Retrospective Application for retention of single storey outbuilding, extension of existing single storey outbuilding, single storey rear extension to create a cold store. Upgrading of extraction equipment to roof on first floor (rear) and erection of closed boarded fence and flue enclosure
<b>Applicant</b>	Mr H Ahmed
<b>Town/Parish Council</b>	SALISBURY CITY
<b>Electoral Division</b>	ST EDMUND AND MILFORD – Cllr Hoque
<b>Grid Ref</b>	414019 130118
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Christos Chrysanthou

### Reason for the application being considered by Committee

Following discussion with Councillor Hoque, Councillor Clewer has called in this application due to public concern.

#### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be APPROVED.

#### 2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle of development
- Need for development and public benefit
- Scale, Design and Impact to the Conservation Area
- Impact on amenity including noise and odour

#### 3. Site Description

The application site is the Baroushka restaurant situated on Fisherton Street in Salisbury central shopping area and conservation area. To the rear of the site there are a number of residential apartments, and a watercourse runs to the immediate west of the site. As this

application is retrospective, the rear yard of the property already contains a number of the apparatus and structures referred to in this report.

#### 4. Planning History

- |              |  |
|--------------|--|
| 16/00780/FUL | Proposed new shopfront, replacement fascia sign, new hanging sign, and new awning.   |
| 16/00894/ADV | Proposed new shopfront, replacement fascia sign, new hanging sign, and new awning.   |
| 16/01900/FUL | Retrospective application for retention of single storey outbuilding, extension of existing single storey outbuilding, single storey rear extension to create a cold store and upgrading of extraction equipment to roof on first floor (rear) |

#### 5. The Proposal

Retrospective planning permission is sought for the retention of a single storey outbuilding, extension of an existing single storey outbuilding, single storey rear extension to create a cold store, upgrading of extraction equipment to roof on first floor (rear) and erection of closed boarded fence and flue enclosure.

#### 6. Planning Policy

##### National Planning Policy Framework

Section 2 Ensuring the vitality of town centres

Section 7 Requiring good design

Section 12 Conserving and enhancing the historic environment

##### Wiltshire Core Strategy

Core Policy 38 Retail and leisure

Core Policy 57 Ensuring high quality design and place shaping

Core Policy 58 Ensuring the conservation of the historic environment

Saved retail policies S1, S2, S3

#### 7. Summary of consultation responses

Salisbury City Council	Objection (noise, loss of amenity, impact to Conservation area)
WC Conservation	Objection (visual impact of fence)
WC Public protection	No objection (subject to conditions)

#### 8. Publicity

The application was advertised by site notice and neighbour consultation letters.

5 Letters of objection have been received citing the following concerns:

- Noise & Odour – the noise levels of the extraction equipment in addition to cooking smells and odour levels has been detrimental to amenity
- Design/Materials – the siting of the structures are unsightly and the use of concrete blocks in the construction of the outbuildings do not match the red brick exterior of the building and do not preserve or enhance the conservation area
- Retrospective application – local residents have expressed dismay that the works were carried out without planning permission

## 9. Planning Considerations

### Principle, Need for the structures, and public benefit

The various flues and outbuildings are required for the efficient operation of the premises as a restaurant. The Wiltshire Core Strategy contains policies (ie CP38, & S1,S2,S3) which seek to encourage the preservation and enhancement of retail and restaurant uses within the city, including along Fisherton Street, in order to produce a vibrant city centre. This in turn supports other policies in the plan, including Tourism aims and policies. Thus a refusal of the structures and apparatus which enable the operation of the restaurant use would have to be weighed against the broader aims of the Plan and national planning policy guidance, which are discussed in the following sections.

### Scale, Design and Impact to the Conservation Area

The NPPF introduces the concept of “substantial”, and “less than substantial” harm (paras 133 & 134), and the concept of public benefit. Policy 58 of the WCS relates to development impacts on heritage assets, including Conservation Areas.

The application proposes the retention of several outbuildings in the rear yard of the restaurant which are used as stores in connection with the premises. The outbuildings have been constructed with concrete blocks and flat felt roofs. In addition the application also proposes the retention of the flue enclosure and the close boarded fence which has been erected as an enclosure around the equipment mounted onto the flat roof of the single storey rear element of the building.

In having special regard to the desirability of preserving and enhancing the appearance and character of the conservation area, the conservation officer has considered the development proposal and has provided the following comments:

*I am a little confused as to which elements are retrospective and which proposed, as the photos submitted on the drawings are different from my own taken more recently (below). The flue appears to be completely different from the drawings, and there is a fence at first floor level not shown on the drawings. I would raise no objection to the black-painted structure, presumably enclosing a flue, however the fencing is inappropriate at this level and unsightly, drawing attention to its oddity; if its purpose is to hide the large ventilation pipes shown on the drawings then an alternative solution could be less prominent. The outbuildings remain unsightly structures but their impact beyond the site is very limited.*

The concerns of the Conservation Officer are noted. However, as the Conservation Officer alludes, whilst the site and its buildings and apparatus are visible at close quarters from the adjacent apartments and the rear of the adjacent Fisherton Street properties, the works as currently undertaken are only partially visible from the wider public areas of the Conservation Areas, particularly from Fisherton Street looking north over the river (Summerlock Bridge), and from the alleyway to the west of the site (Chapel Place), as the site itself is otherwise enclosed by tall buildings.

Thus the actual impact on the character of the wider Conservation Area is not considered significant, and the harm caused is considered to be “less than substantial” at worst case.

Revised drawings have been received which show the closed boarded fence and flue enclosures in situ. Whilst the concrete block walls are quite stark in appearance, the scale and design of the outbuildings are considered to be acceptable. As it would be possible to clad these outbuildings in order to improve their appearance via a suitable condition, which

the applicant has agreed to, it is considered that in visual terms, the structures would not cause such significant detrimental harm to the appearance and character of the conservation area to warrant refusal. Indeed, in officers opinion, the harm caused by the adjusted scheme would be “less than substantial”, and probably very limited.

The applicant has agreed to clad the buildings as suggested. They have also agreed to conditions which ensure the fencing is a suitable acoustic design in line with the comments of Public Protection.

#### Impact on amenity including noise and odour

Core Policy 57 aims to *ensure that proposals have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter).*

As the outbuildings are single storey, whilst they are visible from the windows of properties to the rear of the site, due to their limited scale, it is considered that there would not be any impact to the amenity of neighbouring properties in terms of overlooking/privacy or in terms of being overbearing or dominant/overshadowing.

#### Noise

Para 123 of the NPPF states. *Planning policies and decisions should aim to:*

- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*

Para 003 of the NPPG Noise states: *Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:*

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

*In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation.*

Para 006 of the NPPG Noise states: *Some commercial developments including fast food restaurants, night clubs and public houses can have particular impacts, not least because activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the noise that may be made by customers in the vicinity.*

Third party concerns have been received regards the unauthorised works, and these have been fully taken into account. Officers have consequently discussed this matter with the Council's Public Protection officers, who have also visited the site. Their consultation response is as follows:

*I have now had an opportunity to look at all the reports and visit both the neighbour and the premises. I have enclosed the reports to ensure that you have sight of them as they have come directly off the applicant.*

*The odour report was received on the 2/2/2017 and the noise report on the 26/2/2017*

### Odour

*Redmore Environmental Odour Assessment Ref 1434r5 1st February 2017*

*The report identifies that the odour risk is classified as high and therefore proposes mitigation to ensure that the potential effects on local amenity are minimised. As the odour was identified as high in line with DEFRA guidance it is necessary for any odour control to remove both particulate and gaseous phase of pollutants. Section 4.2.2 of the report states that the following mitigation will be installed:*

- 1. Grease baffles*
- 2. An Allmet pre-filter bag for the removal of dust*
- 3. Carbon filters consisting of 24 \* ac207-1-2424 20 mm activated carbon filters.*

*I would recommend that the mitigation measures identified within the report and listed above are conditioned. However I believe it is necessary to add a condition that ensures the continued maintenance, cleaning and replacement of carbon filters in line with the manufacturers recommendation.*

### Noise

*Noise Impact Assessment Venta Acoustics Report ref VA1577 NIA 6 September 2016*

*The report recommends mitigation in the form of line of sight screening, this should be formed of continuous and imperforate material with a minimum mass per unit area of 10 kg/m<sup>2</sup>.*

*The current fence that has been installed has a gap along the bottom of each panel in between posts therefore it doesn't comply with the recommended mitigation of the report in that it should be continuous. However the second noise report dated: 24 February 2017 Ref: VA1577.170224.L1 provides calculated noise levels following the mitigation works at the receiver.*

*The predicted levels following the mitigation are 28 dB(A) at the facade of the property to the rear and therefore complies with the requirements of BS8233 for internal environmental noise levels. I would recommend that the mitigation measures recommended within the report are conditioned.*

Following receipt of revised noise and odour assessments WC Public Protection have considered the development proposal and do not raise an objection to this application subject to the conditioning of the proposed mitigation measures recommended in the assessments.

Officers consider that the applicant has demonstrated effectively that the odour and noise levels from externally mounted plant and equipment would not have an adverse impact on neighbouring residential properties.

In light of the consultation response provided by WC Public Protection and subject to the implementation of the mitigation measures set out in the odour report and noise assessment, the proposal is considered to be compliant with criteria (vii) of Core Policy 57 and relevant paragraphs in the NPPF which aim to ensure appropriate levels of amenity are achievable within the development including the consideration of privacy, overshadowing; vibration; and pollution such as noise and odour.

## **10. Conclusion**

The concerns of third parties and of the Conservation officer are noted and have been taken into account.

The applicant has submitted sufficient information and mitigation to demonstrate that noise and odour levels can be kept to acceptable levels to not unduly impact the amenity of neighbouring properties.

Whilst officers consider that the concrete block walls are currently rather unsightly, due to the modest scale and design of the outbuildings, their secluded location, and the fact that external materials to improve their appearance could be conditioned, the structures themselves would not impact on the appearance and character of the conservation area so significantly as to warrant refusal.

Officers note that the conservation officer considers the fence to be inappropriate and unsightly at this level. Whilst officers agree that the fence is not ideal, if the fence were not retained, the equipment (which are constructed of light reflective metallic materials) would be visible and would arguably be more visually prominent than the fence.

Having visited the site and viewed the equipment, officers consider that the existing closed boarded fence (which comprises of a gate for maintenance) to be the most practical solution to enclosing the equipment and achieving the required noise barrier. An alternative boxed enclosure has been considered however this would not be practical as the equipment need to vent and maintenance would be difficult.

In addition, officers consider that the public benefits to neighbour amenity in terms of reduced noise levels outweigh the visual impact of the fence which is sited to the rear of the restaurant and would not be visible from the street scene but rather on approach to the rear yard of the restaurant and from the windows of the properties to the rear.

The mitigation measures recommended in the noise and odour assessment would be conditioned to ensure the equipment is maintained to the required specification to ensure that noise and odour levels are kept within standards.

The objections made by the city council and the neighbouring residents have been noted and taken into consideration. In light of the consultation responses received and subject to appropriate conditions, it is considered that the retrospective application is acceptable in planning terms and addresses the previous reasons for refusal. Therefore having regard to the material considerations, and all other matters raised, the Local Planning Authority considers that planning permission should be approved.

## **RECOMMENDATION**

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

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan

Drg. no. s01/p/01a Plans as Existing 1 Date rec. 18/04/17

Drg. no. s01/p/02a Plans as Existing 2 Date rec. 20/04/17

Redmore Environmental Odour Assessment Ref 1434r5 dated 1st February 2017

Noise Impact Assessment Venta Acoustics Report ref VA1577 NIA dated 6 September 2016 and Second noise report Ref: VA1577.170224.L1 dated: 24 February 2017

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3 Within 3 months of this permission, the exterior walls of the outbuildings hereby approved shall be clad with horizontal timber boarding and suitably painted, and the closed boarded fencing around the first floor extraction equipment shall be painted, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 4 Within 3 months of this permission, the mitigation measures, including installation of Grease baffles, An Allmet pre-filter bag for the removal of dust, Carbon filters consisting of 24 \* ac207-1-2424 20 mm activated carbon filters, detailed in Section 4.2.2 of the Redmore Environmental Odour Assessment Ref 1434r5 dated 1st February 2017 shall be carried out in full, and such mitigation measures shall be retained in perpetuity. The applicant should ensure the continued maintenance, cleaning and replacement of carbon filters in line with the manufacturers recommendation.

REASON: To ensure a satisfactory standard of living environment for occupiers of nearby residential properties.

- 5 Within 3 months of this permission, the mitigation measures detailed in Section 5.4 of the Noise Impact Assessment Venta Acoustics Report ref VA1577 NIA dated 6 September 2016 shall be carried out in full prior to the bringing into use of the development. The mitigation measures shall be retained in perpetuity.

REASON: To ensure a satisfactory standard of living environment for occupiers of

nearby residential properties.

## INFORMATIVE

With regards to condition 05, the current acoustic fence at first floor level that has been installed has a gap along the bottom of each panel in between posts. Therefore it doesn't comply with the recommended mitigation of the report in that it should be continuous.