DELEGATED REPORT

Application Reference: PL/2023/06115

PROPOSAL

The application is for the change of use of unit 2A from Class E to restaurant and takeaway (Sui Generis) at Hathaway Retail Park, Chippenham.

SITE DESCRIPTION/CONTEXT

The application relates to a retail unit within Hathaway Retail Park, located in central Chippenham within the Secondary Retail Frontage area of the town. The main London to Bristol railway line is immediately to the south. To the north east of the site on the opposite side of the road is a supermarket and hotel. The site carpark wraps around the north and east of the building with a service yard to the south, adjacent to the railway line. Beyond the car park and Foundry Lane to the north west is more retail and residential uses beyond. The site falls within the Chippenham Conservation area. The closest listed building is Chippenham Station approximately 95m to the south west and to the opposite side of the railway line.

PLANNING HISTORY

Permission for the retail park was originally granted in 1989 subject of N.87.3079.OL. There have been a number of applications since this time, mostly various advert consent applications and some variation to conditions in relation to condition 4 of the permission which prohibits the sale of food for consumption off of the premises, with the exception of confectionary:

Relating to Unit 2A:

- 15/01532/VAR - Variation Of Condition 4 Of Planning Permission N/87/03079/OUT To Allow 20% Of Existing Floorspace To Be Used For The Sale Of Food & Drink – Approved with Conditions

Relating to Unit 1B:

- 21/01414/VAR - Variation of condition 4 from application N/87/3079/OUT to allow for the sale of food from 151 sq.m of floorspace within Unit 1B – Approved with Conditions

POLICIES

National Planning Policy Framework 2023 (NPPF)

Wiltshire Core Strategy 2015 (WCS)

CP1 Settlement Strategy
CP2 Delivery Strategy
CP9 Chippenham Central Areas of Opportunity
CP10 Chippenham Spatial Strategy
CP38 Retail and Leisure
CP57 Ensuring High Quality Design and Place Shaping
CP58 Ensuring the Conservation of the Historic Environment
CP60 Sustainable Transport

CP61 Transport and Development
CP64 Demand Management

North Wiltshire Location Plan 2011 (NWLP)

Policy R2 Town Centre Secondary Frontage Areas

ISSUES

The principal considerations in the determination of this application are:

- The principle of the change of use
- Impact on neighbour amenity
- Highway safety and parking
- Character and appearance of the area and heritage assets

CONSULTATION

Chippenham Town Council: No objection *"Whilst there is no objection to diversifying the 'retail offer' on this particular occasion, any consent must not set a precedent for the loss of other units on the Retail Park from bulky goods retail, as this could ultimately harm the vitality and viability of both Hathaway Retail Park and Chippenham town centre."*

Highways Engineer: No objection

Economic Development: Economic Development fully concur with the comments from Chippenham Town Council.

Environmental Health: No objection subject to conditions in the interest of neighbour amenity

REPRESENTATIONS

No representations have been received.

ASSESSMENT

Principle
The application site is a unit within Hathaway Retail Park falling predominantly within Class E use. The application is for the change of use of the unit from Class E to restaurant and takeaway which would be Sui Generis use. Whilst a restaurant use would be Use Class E, the takeaway element of the use proposed makes this Sui Generis. The unit has a GIA of 676.5sqm.

Planning permission is required for the change of use. Additionally, the original permission for the retail park (ref: N.87.3079.OL) restricts the sale of food other than confectionary without the prior grant of planning permission. The reason for this condition is stated to protect the viability of the high street as a shopping centre and at the time related to the retail sale of food which was relevant to the retail use approved at the time. The majority of the retail park has remained in retail use (now Class E). Except in 2015 planning permission was granted for 20% of Unit 2A (136 sqm) to be used for the sale of food to be consumed off the premises ref: 15/01532/VAR. In addition, in 2021 permission was granted for the same use in Unit 1B which comprised 151 sqm of floorspace ref: 21/01414/VAR.

Relevant policies to considering the principle of the proposal comprise WCS Core Policies 1, 2, 9 and 10, and saved policy R2 of the NWLP. The application site is situated within the Saved Policy R2 Town Centre Secondary Frontage Area and the Core Policy 9 Chippenham Central Area of Opportunity.

Saved policy R2 of the NWLP provides support for proposals for uses including shops, food premises and leisure facilities within the defined town centre secondary frontage areas subject to all the following criteria:
i) They do not individually or cumulatively undermine the vitality or viability of the town centre.
ii) The proposal is consistent with the scale and function of the town centre.
iii) Consideration is given to ensuring that proposals do not eliminate separate access arrangements to the upper floors, which could be used for residential, community or employment uses.

Saved Policy R2 supports proposals for food premises in town centres subject to the above criteria. Given the planning condition on the original permission for the retail park prohibiting the sale of food, the retail park predominantly remains in Class E retail use. Given the existing context, it is not considered that the change of use of this single unit to a restaurant and takeaway would individually or cumulatively undermine the vitality or viability of the town centre. The proposal is a reasonable town centre use. The applicant states the customers will encourage joint or linked trips to the retail park and strengthen the range of the retail offering in this location.

The retail park is situated within Core Policy 9 Chippenham Central Area of Opportunity ii Langley Park. The redevelopment of this Langley Park will be supported to deliver a mixed use site solution for a key redevelopment opportunity area to support the retention of significant business uses on part of the site. The application site is a small part of this area of opportunity for growth. The proposal supports mixed uses. It is not considered the proposals would be contrary to this policy.

Core Policy 38 of the WCS relates to proposals outside of the town centre. This is not applicable as the application site is within the Chippenham town centre secondary frontage area shown in the Wiltshire Core Strategy policies map.

Chippenham Town Council and the Council's Economic Development team have no objection to the proposals on this occasion. However, they do highlight that any consent must not set a precedent for the loss of other units on the Retail Park from bulky goods retail, as this could ultimately harm the vitality and viability of both Hathaway Retail Park and Chippenham town centre. Any future proposal would be judged on its own merit and the cumulative impact of any future change of use would be a planning consideration. Further change of uses away from retail uses may have the potential to undermine the retail offer, and consequently harm the vitality and viability of the town centre.

This proposal is considered to accord with CP1, CP2, CP9 and CP10 of the WCS, and saved policy R2 of the North Wiltshire Local Plan. The proposal is considered to be acceptable in principle.

Residential amenity

The unit is situated within an existing retail park. There are other commercial uses within the area and residential properties to the north. There is currently a 24 hr gym at the retail park, and a food takeaway and a supermarket within the vicinity of the application site. Appropriate hours of opening have been considered given an unrestricted hours of use has the potential to impact neighbour amenity. Hours of opening will be secured by condition, but the condition does have a provision that should the operator seek alternative hours, they may submit an acoustic report to

demonstrate any additional hours would be acceptable in respect of noise. A condition in respect of the noise from fixed plant is also proposed by the Environmental Health Officer. Subject to conditions, the proposal is not considered to result in any adverse effects in terms of residential amenities.

Highway safety and parking
The existing retail park has 382 car parking spaces and the applicant envisages a slight increase in parking demand which would have no material impact on the existing large car park. The Council's Highways Engineer has been consulted on the application and has no objection. No parking or highway safety concerns are raised. The proposals are considered acceptable in terms of highways and parking.

Character and appearance of the area and heritage assets
The application site is situated within the Chippenham Conservation Area and there are a number of listed buildings within the area. There are no external changes proposed to the unit, aside from the potential ventilation/extraction equipment at the rear, details of which will be conditioned allowing assessment of this at a later date. The equipment would be read within the context of the existing retail park and it is considered this could be achievable subject to suitable design. Subject to condition, it is not considered there would be any harm to heritage assets as a result of the change of use. This is an existing retail park and there would be no significant visual change.

CONCLUSION

The proposed change of use from Class E to Sui Generis restaurant and takeaway is considered acceptable in principle; there would be no harm to the character and appearance of the area, heritage assets or neighbour amenity subject to conditions; and there would be no adverse parking/highway safety issues. With no material considerations indicating otherwise, the application is recommended for approval in accordance with the NPPF (2023); Wiltshire Core Strategy policies CP1, CP2, CP9, CP10, CP57, CP58, CP60, CP61 and CP64; and North Wiltshire Saved Local Plan Policy R2.

RECOMMENDATION
That Planning Permission be GRANTED subject to the following 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 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:

Site Location Plan 8452-SA-1723-AL01 Rev C
General Arrangement Plan 8452-SA-1723-P0 Rev A
Block Plan 8452-SA-1723-P002 Rev B

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

3. The rating level (LArTR) of the noise emitted from any fixed plant shall not exceed the existing background noise level (LA90T) at the boundary of residential premises. The rating level shall be determined by measurement or calculation at the boundary of the nearest noise sensitive premises or at another location that is agreed with the local planning authority. Measurements shall be made in accordance with BS4142:2014 +A1:2019. Where the background levels are to be taken as a LA90 1 hour and the ambient noise levels shall be expressed as an LAeq 1 hour during the daytime [07:00 - 23:00] and shall be expressed as an LA90 and LAeq 5 minutes during the night [23:00 – 07:00] at the boundary of the nearest residential noise-sensitive receptors.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

4) The hours of opening of the use hereby permitted shall only take place between the hours of 07:00 and 23:00 from Mondays to Saturdays and between 08:00 and 23:00 on Sundays and public bank holidays. An alternative to these stated hours of use will be accepted on the basis that the following requirement is satisfied:

An acoustic report by a competent person is submitted to and approved in writing by the local planning authority. The report must demonstrate that the noise level associated with the use of the premises (including deliveries) inside bedrooms at the closest noise sensitive premises will not exceed 45 dB LAFmax for >10 times between 23:00 and 07:00 on any night.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.