

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(2)	23/00879/FUL Stratfield Mortimer	22 nd June 2023	Relocation of the approved commercial kitchen extractor vent 6A Victoria Road, Mortimer Common Mr Fetdah Cura
¹ Extension of time agreed with applicant until 6 th October 2023			

The application can be viewed on the Council's website at the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=23/00879/FUL>

Recommendation Summary: Grant planning permission

Ward Member(s): Councillors Nick Carter, Geoffrey Mayes and Vicky Poole

Reason for Committee Determination: Called in by Cllr Nick Carter on the grounds of environmental requirements.

Committee Site Visit: 27th September 2023

Contact Officer Details

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1. Introduction

- 1.1 This application seeks planning permission for the relocation of the previously approved kitchen extractor vent.
- 1.2 6A Victoria Road is a Class E (commercial, business and service uses) unit (former Class A3 – café/restaurant, prior to changes to the use classes). It is currently operating as a café. It is situated within a largely residential area, and opposite a neighbourhood convenience shop/post office.
- 1.3 The proposal involves the alteration of the kitchen extract ductwork run, and the implementation of a commercial extract fan. The run is proposed to be lengthened vertically, enabling the existing discharge point from c.2200mm above ground level, adjacent to the neighbouring properties, 4 Victoria Road and 5A West End Road, to be relocated to a new position of c.6950mm above ground level, facing away from the same neighbouring property. The extracted air is now proposed to be discharged vertically via a flue as opposed to horizontally via a louvre as present.

2. Planning History

- 2.1 The table below outlines the relevant planning history of the application site.

Application	Proposal	Decision / Date
22/01026/FULD	S73 Application for variation of Conditions (1) - Approved plans and (4) - Odour and noise of approved application 19/00264/FULD: S73A. Application for variation of Conditions (2) - Approved plans, (3) - Materials, (4) - Sound insulation, (5) - Odour and noise and (10) - Parking and turning of approved application 17/02144/FULD	Approved / 30/06/2022
19/00264/FULD	S73a. Application for removal/variation of Conditions (2) - Approved plans, (3) - Materials, (4) - Sound insulation, (5) - Odour and noise and (10) - Parking and turning of approved application 17/02144/FULD - Refurbishment and re-cladding of existing building, new pitched roof to second floor to create an apartment on first floor and second floor (C3), partial retention of office space on first floor (B1) and change of use of ground floor to Class A3.	Approved / 26/03/2019
17/02144/FULD	Refurbishment and re-cladding of existing building, new pitched roof to second floor to create an apartment on first floor and second floor (C3), partial retention of office space on first floor (B1) and change of use of ground floor to class A3.	Approved / 07/12/2017
14/00043/FUL	Change of use from office (B1) to Hairdresser (A1) for office 1 of a first floor suite of 5 offices.	Not Required / 12/02/2014

11/02261/FUL	Removal of the existing shopfront and replacing it with a new one with DDA compliant automatic door and electric shutter	Approved / 09/01/2012
10/01065/FUL	Temporary change of use to a contractors office for 18 months	Approved / 29/07/2010

3. Legal and Procedural Matters

- 3.1 **Environmental Impact Assessments (EIA):** Given the nature, scale and location of this development, it is not considered to fall within the description of any development listed in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. As such, EIA screening is not required.
- 3.2 **Publicity:** Publicity has been undertaken in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, and the Council's Statement of Community Involvement. A site notice was displayed on the 9th May at the front of the café, with a deadline for representations of the 31st May.
- 3.3 **Local Financial Considerations:** No local financial considerations are material to this application.
- 3.4 **Community Infrastructure Levy (CIL):** Given that no new floorspace is proposed, the development is not considered CIL chargeable.

4. Consultation

Statutory and non-statutory consultation

- 4.1 The table below summarises the consultation responses received during the consideration of the application. The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report.

Stratfield Mortimer Parish Council:	At a meeting on 30th May 2023, the Planning Committee of Stratfield Mortimer Parish Council considered planning application 23/00879/FUL under agenda item 23/007. The Committee had no objections to the relocation of the extractor vent, however, it noted the comments from Environmental Health (dated 10th May 2023) and would support their consultation response to the Case Officer. The Committee would look to West Berkshire Council to ensure that both the environmental issue of odours are addressed and any subsequent nuisance caused in the locality is removed.
WBC Highways:	No objections
Environmental Health	10th May 2023: Support, subject to further information being submitted relating to the control of odours, the cleaning and maintenance of the equipment, and confirmation if the second-

	<p>floor accommodation was built as per approved plans of permission 17/02144/FULD.</p> <p>7th June 2023: Information submitted by applicant to address the points above. Recommend conditional approval.</p>
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Public representations

- 4.2 Representations have been received from 1 contributor, who objects to the proposal.
- 4.3 The full response may be viewed with the application documents on the Council's website, using the link at the start of this report. In summary, the following issues/points have been raised:
- (1) The addition of a flue would be unsightly.
 - (2) Odours emanating from the application site are offensive to the surrounding area, and there are concerns that the odours would be caught in winds, meaning there would be no improvement on the existing situation.
 - (3) The premises is now open 7 days a week as opposed to 6 when it first opened, and that there are plans to obtain an alcohol license and extend the opening hours to 21:30.
 - (4) There are lorries blocking pavements with deliveries and cars parking on double yellow lines, causing a hazard to pedestrians.

5. Planning Policy

- 5.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The following policies of the statutory development plan are relevant to the consideration of this application.
- Policies ADPP1 (Spatial Strategy), ADPP6 (East Kennet Valley), CS13 (Transport), CS14 (Design Principles) and CS19 (Historic Environment and Landscape Character) of the West Berkshire Core Strategy (2006-2026).
 - Policies OVS5 (Environmental Nuisance and Pollution Control) and OVS6 (Noise Pollution) of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).
 - Policies C4 and C7 of the Stratfield Mortimer Neighbourhood Development Plan (2017).
- 5.2 The following material considerations are relevant to the consideration of this application:
- National Planning Policy Framework (NPPF)
 - Planning Practice Guidance (PPG)
 - WBC Quality Design SPD (2006)
 - Stratfield Mortimer Village Design Statement (2007)

6. Appraisal

- 6.1 The main issues for consideration in this application are:

- Principle of development
- Character and appearance
- Neighbouring amenity, particularly issues relating to environmental health
- Highways matters

Principle of development

- 6.2 The application site is located within the settlement boundary of Mortimer. Policy ADPP1 of the West Berkshire Core Strategy identifies Mortimer as a rural service centre, where appropriate development can provide an opportunity to strengthen the role in meeting the requirements of the surrounding communities. Policy ADPP6 provides the spatial strategy for the East Kennet Valley, which advises that Mortimer is one of the locations within the area that are to be the focus of development.
- 6.3 Policy C4 of the Stratfield Mortimer NDP supports the expansion of existing local services, subject to the business not adversely affecting the locality and the amenities of local residents. Policy C7 similarly supports employment and commercial activity, subject to criteria including retaining and respecting any architectural features of the building and the amenities of local residents.
- 6.4 It is therefore considered that the principle of this development would be acceptable, and compliant with Policies ADPP1 and ADPP6 of the West Berkshire Core Strategy (2006-2026), subject to the proposal meeting the other detailed requirements set out below.

Character and appearance

- 6.5 Policies CS14 and CS19 relate to design and impacts on the character and appearance of the area.
- 6.6 Referring to point (1) of the summary of public representations, the proposed flue and externally facing ductwork are proposed to be light grey steel to match the colour of the existing cladding. This will also be a similar colour to the existing drainage downpipes. They will have a similar visual impact to the existing external pipework. Therefore, the appearance of the flue is considered comparable to a drainage downpipe, commonplace in the primarily residential area.
- 6.7 It is therefore considered that the proposal complies with the NPPF and Policies CS14 and CS19 of the West Berkshire Core Strategy, with regards to the effect of the proposal on the design, character and appearance of the area.

Neighbouring Amenity

- 6.8 The NPPF states that planning should create places with a high standard of amenity for all existing and future users. Policy CS14 states that development should make a positive contribution to quality of life. As such amenity is an important consideration.
- 6.9 The assessment considered the impact on neighbouring amenity in terms of;
- Sunlight / daylight
 - Overlooking / privacy
 - Overbearing impact
 - Noise and disturbance

- 6.10 Policy C7 of the Stratfield Mortimer Neighbourhood Development Plan (2017) encourages development that does not adversely affect the locality and amenities of the local residents.
- 6.11 According to Policy OVS.5, the Council will only permit development proposals where they do not give rise to an unacceptable pollution of the environment. In order to minimise the adverse impact on the environment or loss of amenity proposals should have regard to:
- (a) the need to ensure the adequate storage and disposal of waste materials; and
 - (b) the installation of equipment to minimise the harmful effects of emissions; and
 - (c) the hours, days or seasons of operations; and
 - (d) locating potential nuisance or pollution activities onto the least sensitive parts of the site or where the impacts can be best contained by physical or other appropriate measures.
- 6.12 According to Policy OVS.6, the Council will require appropriate measures to be taken in the location, design, layout and operation of development proposals in order to minimise any adverse impact as a result of noise generated.
- 6.13 The proposal has been assessed against the above metrics.
- 6.14 Due to the nature of the proposal, there is not considered to be any impact with regards to sunlight, overlooking or overbearing. The comments received from the public consultation relating to disturbance (or odour in this instance) have been noted and are addressed in paragraphs 6.15 and 6.18 below.
- 6.15 Referring to point (2) of the summary of public representations, as advised by the Environmental Health officer, the source of the odour emanating from the premises appeared to be due to the fact that equipment required as part of planning permission 22/01026/FULD, namely the Carbon and Fine Grease filters, had not been installed. During the course of the application this has been installed and the Environmental Health officer noted a reduction in correspondence from previous complainants.
- 6.16 The proposed works would further ameliorate the situation, going above and beyond the mitigation required as part of the previous planning permission. Locating the flue above roof level, which is considered best practice according to the Emissions Monitoring Air Quality (EMAQ) guidance 'Control of Odour and Noise from Commercial Kitchen Extraction Systems (2022),' will result in the air being discharged from a much higher point, further reducing the impact on the locality.
- 6.17 As advised by the Environmental Health officer, a schedule of maintenance has been submitted by the applicant, in line with EMAQ guidance, which will also ensure the impact on the locality is minimised. A condition has been requested ensuring that this regime is followed. Section 5 of the EMAQ guidance is particularly pertinent to this application, and Paragraph 5.1.2 gives an indication of the industry standard cleaning routine to be adhered to. This forms the basis of the recommended condition.
- 6.18 Referring to point (3) of the summary of public representations, the issues relating to the alcohol license and extended opening hours are not material planning considerations, and have been addressed by the Licensing department of the Public Protection Partnership, where a license to supply alcohol between the hours of 11:00 and 21:30 was granted subject to conditions on 27th July 2023. Nonetheless, Condition 7 of planning permission 17/02144/FULD, and reinforced by Condition 6 of planning permission 22/01026/FULD, both state:

The A3 use hereby permitted shall not be open to customers outside the following hours, 07:30- 23:00 on any day.

Reason: To safeguard the amenities of surrounding occupiers. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policies OVS5 and OVS6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

This means that purely from a planning perspective, extending the opening hours to 21:30 as referenced in the public representations would not be in breach of the previous planning conditions. It is recommended the condition also be applied to this proposal for consistency.

- 6.19 With regards to potential impacts relating to noise propagation, the Environmental Health officer noted that extraction systems such as that proposed are capable of generating noise if not sufficiently attenuated. They are satisfied that the proposed plans indicate that all bolt connections on the flue will be mounted with anti-vibration rubber to dampen vibration and noise. A condition is requested by the Environmental Health officer relating to the attenuation measures, and that they should be implemented in line with the submitted plans. The extraction unit itself is potentially a large source of noise and nuisance. To remedy this, the unit is to be fitted inside the premises, which will limit the impact on the locality.
- 6.20 The flue itself can amplify noise, particularly if regular cleaning is not undertaken. Providing the aforementioned schedule of maintenance agreed by the applicant is undertaken, the extract air velocities will be sufficiently low to ensure there is no noticeable noise, and sufficiently high to maintain negative pressurisation within the kitchen itself to allow for the optimum operation of the system. As an informative, it is also important that the equipment is cleaned regularly, in line with the advice of the Environmental Health Officer and EMAQ guidance, as failure to do so can present a fire risk and raises hygiene concerns.
- 6.21 It should be noted that if the equipment was not operated in an appropriate way, such that it caused a statutory nuisance to local residents, then Environmental Health have separate powers under the Environmental Protection Act 1990.
- 6.22 The second-floor area of the flat is not currently built out, and so there is currently no impact on this area. However, Environmental Health have advised that the situation could be further improved in relation to any future use of the third floor, by relocating the flue. The works hereby proposed are an improvement on the current situation, which is in accordance with the existing planning permission. Given that this is going above and beyond what is required by the conditions for the mixed-use building, further changes cannot be insisted upon under this application.
- 6.23 The proposed flue is located close to the neighbouring properties, 4 Victoria Road and 5A West End Road, so it is important to emphasise that the whole of the proposal must be contained within the curtilage as shown on the plans.
- 6.24 It is therefore considered that the proposal is an improvement on the existing scenario, and is in accordance with Policy CS14 of the West Berkshire Core Strategy (2006-2026).

Highway Matters

- 6.25 Policy CS13 of the West Berkshire Core Strategy relates to the need for development to promote safe travel and ensure adequate parking provision.

- 6.26 This proposal will have no impact on the existing situation with regards to parking. Furthermore, the Highways Authority were consulted as part of this application and have raised no objection to the proposed development, and the potential impact on parking provisions.
- 6.27 Referring to point (4) of the summary of public representations, the addition of a flue will not exacerbate the number of deliveries received, which is supported by the Highways Authority raising no objection to the proposal.
- 6.28 The proposal is therefore considered to comply with Policy CS13 of the West Berkshire Core Strategy (2006-2026).

Parish Council Representations

- 6.29 The comment from Stratfield Mortimer Parish Council with regards to ensuring the environmental issues are addressed and removing the nuisance to the locality is considered to have been resolved by the applicant liaising with the Environmental Health Officer, and agreeing to install carbon and fine grease filters, as well as providing a schedule of maintenance.

7. Planning Balance and Conclusion

- 7.1 Given the above, it is considered that the proposal is in accordance with the provisions of the National Planning Policy Framework (2023), Policies ADPP1, ADPP6, CS13, CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), Policies OVS.5 and OVS.6 of the West Berkshire District Council Local Plan Saved Policies 2007 and Policies C4 and C7 of the Stratfield Mortimer Neighbourhood Development Plan (2017), subject to various conditions, including those requested by the Environmental Health officer. The application is recommended for conditional approval.

8. Full Recommendation

- 8.1 To delegate to the Development Control Manager to GRANT PLANNING PERMISSION subject to the conditions listed below.

Conditions

1.	<p>Commencement of development</p> <p>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).</p>
2.	<p>Approved plans</p> <p>The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:</p> <p>Site Location Plan received on 26/04/2023 220930-AE100 – Approved Site Block Plan received on 26/04/2023 220930-AP101 – Proposed Floor Plan received on 26/04/2023 220930-AP201 – Amended Proposed Elevation received on 20/09/2023 220930-AP202 – Amended Proposed Elevation received on 20/09/2023 220930-AP903 – Kitchen Extractor Detail received on 26/04/2023</p>

	Reason: For the avoidance of doubt and in the interest of proper planning.
3.	<p>Materials</p> <p>The materials to be used in the development hereby permitted shall be as specified on the proposed elevation plans. Where stated that materials shall match the existing, those materials shall match those on the existing development in colour, size and texture.</p> <p>Reason: To ensure that the external materials are visually attractive and respond to local character. This condition is imposed in accordance with the National Planning Policy Framework (2023), Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), Policy GD5 of the Stratfield Mortimer Neighbourhood Development Plan 2017, Supplementary Planning Document Quality Design (June 2006), and the Town/Village Design Statement for Stratfield Mortimer 2007.</p>
4.	<p>Hours of Work</p> <p>The hours of work for all contractors for the duration of the site development shall unless otherwise agreed by the Local Planning Authority in writing be limited to: 7:30 am. to 6:00 pm. on Mondays to Fridays, 8:30 am. to 1:00 pm. on Saturdays and NO work shall be carried out on Sundays or Bank Holidays.</p> <p>Reason: To safeguard the amenities of surrounding occupiers. This condition is imposed in accordance with the National Planning Policy Framework (2023), Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policies OVS4 and OVS6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).</p>
5.	<p>Hours of Opening</p> <p>The commercial use (Use Class E) shall not be open to customers outside the following hours, 07:30- 23:00 on any day.</p> <p>Reason: To safeguard the amenities of surrounding occupiers. This condition is imposed in accordance with the National Planning Policy Framework (2023), Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policies OVS5 and OVS6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).</p>
6.	<p>Equipment and Maintenance</p> <p>The development hereby approved shall not be brought into use until the fume extraction and filtration equipment have been installed at the premises in accordance with submitted Drawing No. AP903 'Kitchen Extractor Details' dated 30/09/2022 by Studio Noi and in accordance with the details submitted in emails from Fetdah Cura to Erica Myers dated 4 July 2023 (14:27) and 5 July 2023 (13:51). The equipment shall thereafter be retained, operated and maintained in its approved form and in accordance with the manufacturer's recommendations for so long as the use hereby permitted remains on site.</p> <p>Reason: To ensure that no nuisance or disturbance is caused to the occupiers of neighbouring properties. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policies OVS5 and OVS6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).</p>

Informatives

1.	This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. In this application whilst there has been a need to balance conflicting considerations, the local planning authority has worked proactively with the applicant to secure and accept what is considered to be a development which improves the economic, social and environmental conditions of the area.
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