

## BOSTON BOROUGH COUNCIL

### Planning Committee 3 April 2018

Reference No: B/17/0476

Expiry Date: 6h April 2018 (extended from 24-Jan-2018)

Application Type: Full Planning Permission  
Proposal: Change of use from shop (Class A1) with residential accommodation above to a mixed use comprising a shop (Class A1) and a separate hot food takeaway (Class A5) on ground floor with a first floor bedsit (Class C3) tied to the business and a separate two bed flat (Class C3) with independent access from Station Road. Construction of a first floor rear extension. Retrospective permission to remove and repair the chimneys and replace the roof tiles with materials to match the previous roof tiles.

Site: 1-3, Station Road, Kirton, Boston, PE20 1EE

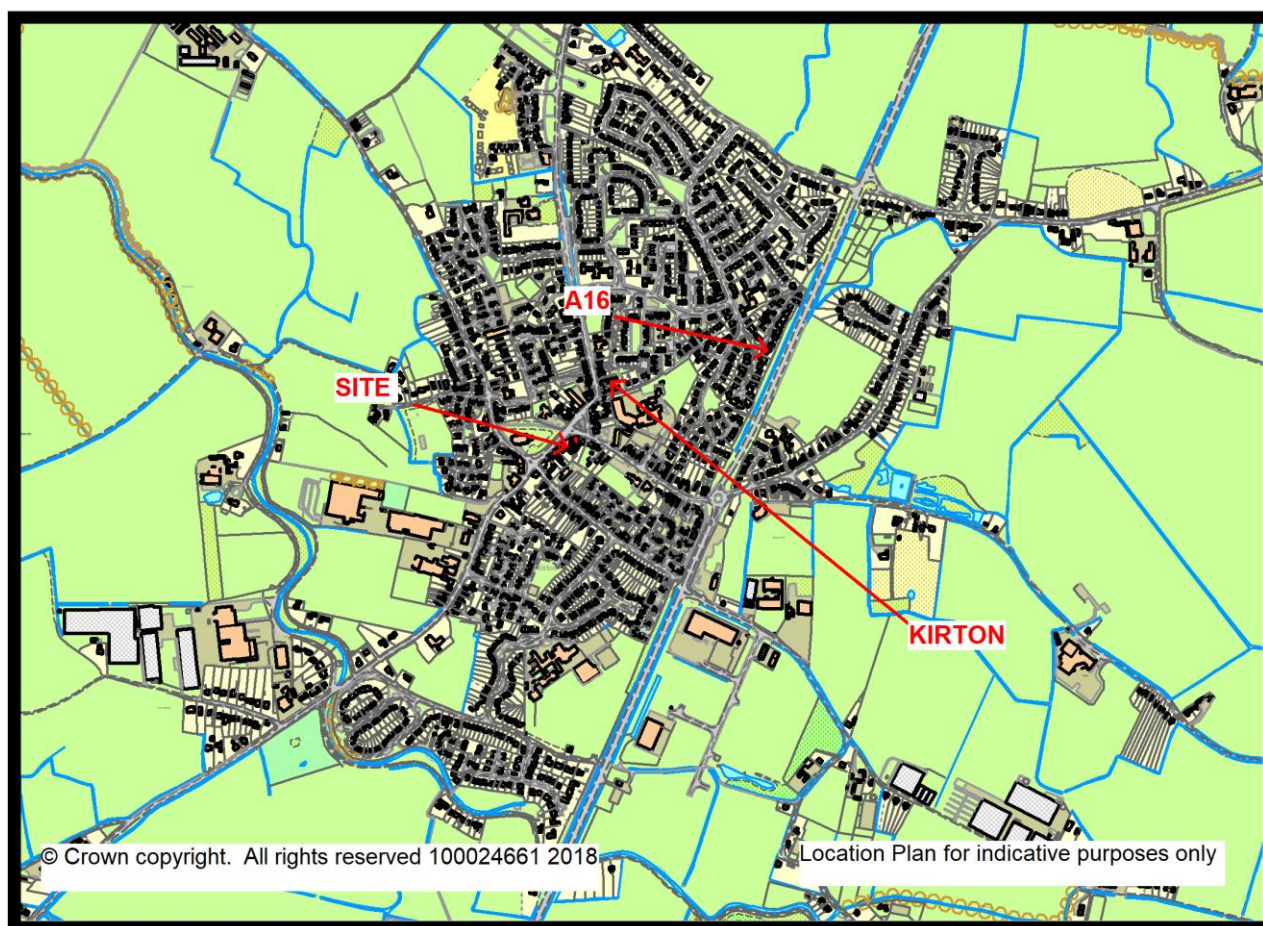
Applicant: Mr Halil Erol

Ward: Kirton  
Parish: Kirton Parish Council

Case Officer: Stuart Thomsett

Third Party Reps: Eight letters and a 50 signature petition.

**Recommendation: GRANT**



## **1.0 Reason for Report**

1.1 This item is presented to the Planning Committee due to the level of public interest and level of objections received, namely eight letters, a 50 signature petition and an objection from Kirton Parish Council.

## **2.0 Application Site and Proposal**

2.1 The application site, 1-3 Station Road, Kirton is a former shop (Fossitt and Thorne's) with accommodation above.

2.2 The site is within the Kirton Conservation Area and within the centre of the village.

2.3 There are three aspects of this application: -

- i) Change of use from shop (Class A1) with residential accommodation above to a mixed use comprising two units: a shop (Class A1) and a separate hot food takeaway (Class A5) on ground floor; with a first floor bedsit (Class C3) tied to the business; and a separate two bed flat (Class C3) with independent access from Station Road.
- ii) Construction of a first floor rear extension. The proposed first floor extension is intended to provide 'bed-sit' accommodation for the manager of the take-away unit, which will be accessed from the rear courtyard through a fire protected stairwell as this is to be used in conjunction with and accessed through the shop.
- iii) Retrospective permission to remove and repair the chimneys and replace the roof tiles with materials to match the previous roof tiles.

2.4 The site is within the Kirton Conservation Area and the application has been subject of an advert in the local press as well as a site notice and notification letters to nearby properties thus in full accordance with the Council's Statement of Community Involvement (SCI).

## **3.0 Relevant History**

3.1 No recent relevant history regarding the shop with residential accommodation above.

3.2 The applicant's contractor removed the roof tiles and replaced with new and removed the chimneys at the turn of the year as he considered that the chimneys were structurally unsafe and a danger to pedestrians. As the building is within a conservation area, planning permission is required to carry out these works. During discussions with Boston Borough Council throughout the application, the agent confirmed in writing that the chimneys and pots will be reinstated as they appeared prior to their removal.

## **4.0 Relevant Policy**

4.1 The site is located within the Kirton Development Boundary and Conservation Area. Relevant Adopted Local Plan policy is Policy G1 which states that "*Planning permission will only be granted for development which will not substantially harm the amenities of other nearby land users or residents, or the general character of the area because of its nature, scale, density, layout, appearance of level of traffic generation*"

- 4.2 Policy RTC8 of the Boston Borough Local Plan is not relevant as it pertains to town centre land uses in Boston.

#### Relevant Government Policy (NPPF 2012)

Para 23 of the NPPF states that planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. It adds that LPAs should:

- Recognise town centres as the heart of their communities and pursue policies to support their viability and town centres
- Promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres

Whilst Kirton remains a village, it is the second largest settlement in the Borough and has the characteristics of a small town.

### **5.0 Representations**

- 5.1 As a result of publicity eight objections were received from *Harvey House* (No. 5 Station Road), No. 2 Station Road, 35 Nightingale Road, *Waterside*, Skeldyke Road (two letters), No. 28 London Road, Kirton, No. 66 Thomas Middlecott Drive and No. 70 Edinburgh Drive as well as a petition signed by 50 people. The following issues were raised: -

- Detrimental impact upon the Kirton Conservation Area
- Detrimental impact upon highway safety and increased pressure on limited car parking spaces
- Increased noise and disturbance, particularly considering premises open until 11pm
- Kirton is overrun with eating establishments (*The Godfather, Four Seasons, The Curry King, Kirton Kebab, Kirton Cafe, Jessops bakers, The Merry Monk, The Black Bull, The Cottage*), which already results in litter and take away debris and this will increase significantly.
- Proximity of proposed extension will result in total loss of privacy, considerable reduction of daylight and adverse effect on grade II listed building.
- Too much competition will lead to closure of one of the businesses – would be better as a shop serving fresh local produce
- Contrary to what is stated on the plans, the chimney pots have been removed.
- The take away premises will lead to an increase in speeding motorists.
- The change of use will lead to an increase in noise, smells and vermin.
- The change of use will not add to the diversity or the ambience of the village.

### **6.0 Relevant Consultations**

- 6.1 Environmental Health (Pollution) wishes to raise no objections.

- 6.2 Kirton Parish Council submitted the following response: -

*The drawings show chimneys on the before and after pictures - the chimneys have in fact been removed from the roofline. This is within a conservation area and it will change the appearance of this area. The Council would like to see that they are reinstated. The other observations are that the roof is now a completely different colour - it would be better within the Conservation area if this was reinstated too to the original. Also concern regarding another fast food establishment with the increase in litter in the street that this will undoubtedly result in.*

## 7.0 Planning Issues And Discussion

- 7.1 The entire property comprising 1-3 Station Road is under-going complete renovation. The two properties are connected but will become separated to form No. 1 Station Road which consists of a shop (Class A1) at ground floor of the property with a two bed flat above which has an independent access from Station Road. This two bed flat also stretches across and above the proposed take-away facility at No 3 Station Road but will remain separate and remains an independent flat and not tied to either business.
- 7.2 No.3 Station Road is the part of the building closest to the magnificent listed building, Harvey House, No. 5 Station Road) and it is proposed to operate a take-away premises from the ground floor unit with a bed-sit to be used by the manager of the take-away business. In the event of approval, a condition has been attached which ties the occupancy of the bed-sit to the business.
- 7.3 There are two very distinct and separate issues to consider in determining this application: -
- i) The **principle of the proposed use** at ground floor level of No.3 Station Road, the impact on neighbouring properties, the extraction of cooking odours, parking/traffic matters and impact on the character or appearance of the street scene and Conservation Area.
  - ii) The **physical changes**, namely the removal of the roof tiles to be replaced with new; the removal of three chimney stacks including pots; and the construction of a first floor rear extension to provide accommodation tied to the business at ground floor (take-away).

### **The principle of the proposed use**

- 7.4 In terms of use, the only matters to be determined are whether the proposed change of use of the ground floor unit at No. 3 Station Road and the tied bed-sit at first floor are acceptable in terms of policies contained within the development plan and other material considerations. Essentially, to what degree will the change of use impact upon the amenities of neighbouring properties, the character of the Kirton Conservation Area and the adjacent listed building or impact upon highway safety?
- 7.5 This application has been presented to Planning Committee due to the level of public interest and number of objections it has generated. However, whilst the points raised may represent valid concerns about the likely impacts in terms of litter generation and other such anti-social behaviour, environmental pollution, provision of yet further food premises in Kirton and competition, these do not constitute planning grounds.
- 7.6 The following paragraphs will discuss each subject, beginning with environmental pollution and anti-social behaviour.

- 7.7 When assessing change of use applications for take-away premises, local planning authorities (LPAs) must consider the likely impact upon the character of the area and paying particular attention to the cooking of take-away food. Whilst food such as pizza does not generally cause great concern, the production of fried foods, fish and chips and kebabs results in unpleasant odours and large amounts of grease, smoke and odours which can cause environmental pollution if the correct measures are not taken and the appropriate equipment is not installed to prevent this from occurring. LPAs must consider all types of take-away food when determining such applications. Plans and supporting filtration and extraction information were submitted on behalf of the Applicant.
- 7.8 The usual method of odour and smoke extraction is via an external flue or chimney that terminates a minimum of 1.0m above the eaves of the roof to enable the fumes and smoke to be drawn into the atmosphere and therefore away from residential properties. The other method, which has been proposed by the Applicant's kitchen extraction consultant follows a risk assessment in accordance with the DEFRA guidance which proposes the installation of two methods of filtration incorporating carbon filters. Boston Borough Council's Environmental Health Department has assessed the report and application and does not wish to raise any objections. It is important to note, and is therefore reiterated that the submitted plans do not include an external flue or chimney to extract smoke or fumes. However, the extraction equipment proposed is considered to be capable of preventing significant levels of environmental pollution likely to cause significant or substantial harm to the character of the area or the amenities of nearby residential properties as set out in Local Plan Policy G1.
- 7.9 Many of the objectors considered that the proposed take-away would have a detrimental impact upon the character of the Kirton Conservation Area primarily through the generation of litter and other anti-social behaviour. There is no reason to believe that a change of use from shop to take-away would in itself result in such issues which are determined by human behaviour which is not determined by planning policy or guidance. This can also be applied to what type of shop or for that matter take-away facility that may operate from these premises. Issues such as competition will be determined by market forces and are not matters that should be determined by the LPA.
- 7.10 Similarly, there is no reason to believe a take-away outlet is any more likely to generate increased traffic and short-stay parking that would impact significantly upon highway safety. Whilst this premises has generally operated during daylight hours, the volumes of traffic and parking generated by the proposed take-away as opposed to the former well-used Fossitt & Thorne's shop is actually likely to be less, albeit over extended opening hours (11am – 11pm daily as opposed to 8am – 6pm daily). As this is a site in the centre of Kirton it would not be reasonable to expect parking for the take-away business any more than a shop, as this cannot be accommodated.
- 7.11 The overall renovation of the ground floor unit and use as a take-away would be an improvement to the street scene of this part of Kirton, and would re-open a business unit thus creating interest in the area. It will not be detrimental to the character and appearance of the Conservation Area.

## The physical changes

- 7.12 The second aspect of the application that must be determined are the physical changes that have already occurred or are proposed: -
- the removal of the red concrete interlocking roof tiles to be replaced with new
  - the removal of three chimney stacks including pots
  - the construction of a first floor rear extension to provide accommodation tied to the business at ground floor (take-away).
- 7.13 No. 1-3 Station Road is inside the Kirton Conservation Area (KCA) and consequently the replacement of existing red concrete interlocking roof tiles with new requires planning permission. Considering that the materials used are like-for-like and should weather within five years, and whilst it is regrettable that the tiles were removed without first seeking consent, the replacement roof tiles are not harmful to the appearance of the KCA or the setting of the adjacent listed building. Similarly, the three chimney stacks and pots (two on the ridge, one on the rear roof slope) were removed without consent. The LPA discussed the matter with the contractor working on behalf of the Applicant whom removed the chimneys amid safety fears regarding the structural integrity and associated health and safety concerns. The Planning Agent submitted written confirmation that the chimneys and pots will be reinstated. At the time this report was written, this had not occurred and thus the requirement to do so has been attached as a condition.
- 7.14 The proposed first floor extension measures 5.35m wide x 7.6m deep with a shallow pitch roof that will terminate 1.5m lower than the ridge height of the main building. The rear elevation includes a kitchen window and a rear door with Juliet balcony leading from the internal hallway. However, this is not an access, as the bed-sit is to be used in conjunction with and accessed through the shop. The bed-sit will be accessed from the rear courtyard through a fire protected stairwell. It is proposed to construct the extension on the eastern boundary of the site in materials to match the main building and is not considered likely to cause substantial harm to either the amenities or the setting of the adjacent grade II listed building '*Harvey House*', No. 5 Station Road.
- 7.15 In the light of the above it is recommended that permission be granted, subject to the conditions set out below.

## 8.0 **Recommendation**

8.1 GRANT Planning Permission subject to the following condition(s) and reasons:-

### **CONDITIONS AND REASONS:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**Reason:** Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
  
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Location Plan (1/3)
  - Proposed Floor Plans and elevations (3/3)
  - The Specification & Defra Report by purified air filtration experts created by Don Miles and dated 30<sup>th</sup> January 2018And the email dated 22<sup>nd</sup> February 2018 submitted by planning agent Darren Timms on behalf of the applicant  
**Reason:** To ensure the development is undertaken in accordance with the approved details and to accord with Adopted Local Plan Policy G1.
  
3. The take-away premises hereby approved shall only be open to the public between the hours of 11am – 11.00pm daily.  
**Reason:** In the interests of the amenity of nearby residents and to accord with Adopted Local Plan Policy G1.
  
4. The occupation of the bed-sit at No.1-3 Station Road, Kirton identified in the submitted plans shall be limited to a person solely or mainly employed in the take-away business at ground floor hereby approved.  
**Reason:** The business is expected to create a level of disturbance beyond that which could be considered reasonable by an occupant of the dwelling if not associated with it and to accord with Adopted Local Plan Policy G1.
  
5. The three chimney stacks and pots as identified on the existing and proposed plans shall be replaced using the same materials as the chimneys removed.  
**Reason:** In the interests of the character of the Conservation Area and to accord with Adopted Local Plan Policy G1.

**Simon Rowberry**  
**Interim Development Manager**