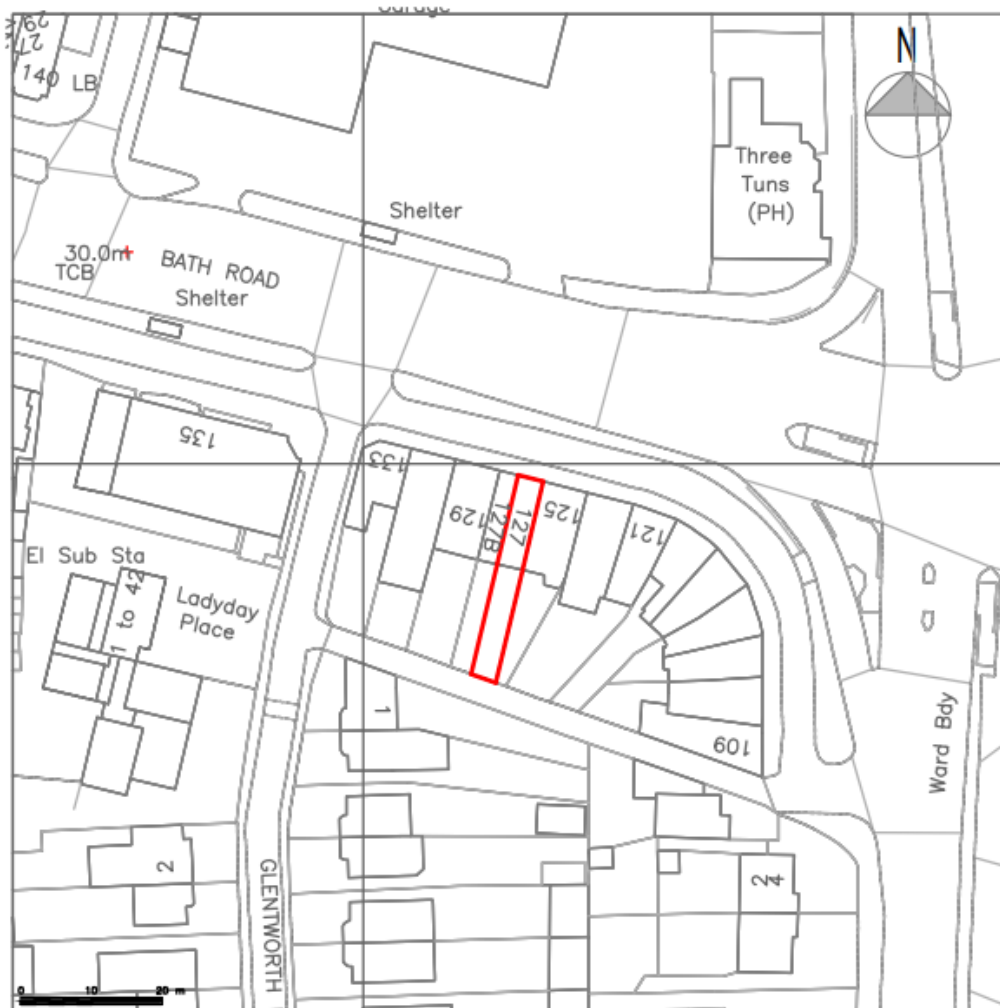


Registration Date:	06-September-2023	Application No:	P/20307/000
Officer:	Michael Scott	Ward:	Cippenham Manor
Applicant:	Shakeel Zamurad Esq.	Application Type:	Minor
		8 Week Date:	01 November 2023 [EoT 09 Feb 2024]
Agent:	SA ASSOCIATES, 9, Mackenzie Street, Slough, SL1 1XQ		
Location:	127 Bath Road, Slough, SL1 3UW		
Proposal:	Planning application for a proposed extraction for odours at cafe/restaurant (Class E).		

Recommendation: Delegate to the Planning Manager to approve subject to conditions



1.0 **SUMMARY OF RECOMMENDATION**

1.1 Having considered the relevant policies of the Development Plan set out below, and representations that have been received from consultees and the community, and all other relevant material considerations, it is recommended the application be delegated to the Planning Manager to approve subject to: finalising conditions and any other minor changes.

1.2 Under the current constitution, this application is to be determined at Planning Committee, as it is an application with “five or more objections”.

PART A: BACKGROUND

2.0 **Proposal**

2.1 This is a full planning application for:

- Inlet and extract duct covers for a ventilation system.

3.0 **Application Site**

3.1 The application relates to a ground floor unit in a mixed-use block fronting the Bath Road that extends around the corner into Tuns Lane.

3.2 The ground floors are commercial/non-residential; whilst the upper floor of the block is residential with independent access to each flat from the rear.

3.3 The entire length of the block benefits from a service access road at the front, as well as, a series of service yards at the rear, which are accessed from a lane running between Glentworth Place and Tuns Lane.

3.4 For completeness, it should be noted: the site is located outside of the Town Centre; the parade is not a Primary or Secondary frontage; the site does not lie in a conservation area; there are no heritage assets nearby; the premises are in Flood Zone 1 (where no Flood Risk Assessment is required; and there are no protected trees in the vicinity.

4.0 **Site History**

4.1 There is no planning history for the site.

5.0 **Neighbour Notification**

5.1 In accordance with Article 15 of The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020, two site notices were displayed in the immediately vicinity (i) outside the frontage on Bath Road; and, (ii) at the rear in the service access road - on 04/10/2023.

5.2 Objections were received from Nos. 6 Tuns Lane, 52 Telford Gardens, 121 Bath Road (Peri Chick 'n' Grill), 84 Canterbury Avenue, 121a Bath Road, 111 Bath Road, and 87 Monksfield Way.

5.3 The issues raised are:

- **Overconcentration:** The Three Tuns parade already hosts a significant number of food establishments. Any further increase would lead to overconcentration and imbalance, adversely affecting the livability and diversity of the neighbourhood. We need a balanced mix of amenities and services to cater to the varied needs and desires of our community. There are already too many takeaways – there are 5 takeaways and cafés – we don't need another one.

Officer response: The application submitted is not for the use of premises for food establishments, it is solely for the installation of inlet and extract duct covers for a ventilation system. It should be noted the use is permitted under the Use Classes Order in England 2021 under the of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, and further amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015 (Amended) whereby the Local Planning Authority has no control over the use of the site as it can be undertaken without requiring planning permission.

- **Traffic congestion:** Additional restaurants or takeaways would likely cause increased traffic, congestion in an already busy area. This would not only inconvenience residents and visitors but also pose a risk to pedestrian safety and hinder emergency services.

Officer response: The use of the property as a restaurant or takeaway is not being applied for, therefore, the Local Planning Authority is unable to control the land use as this is permitted under the Use Class Order (planning permission is not required) and as the application is for installation of inlet and extract duct covers for a ventilation system which would be installed on the building, there would be no highways or transport implications as a result of the proposal.

- **Noise and pollution:** The opening of new food establishments would contribute to increased noise levels, especially during peak hours.

This could disrupt the peace and tranquility of the community, negatively impacting residents' quality of life. Moreover, additional eateries may lead to excess waste generation and pollution if not managed efficiently. These uses are not environmentally friendly – i.e. pollution – gas/oil/CO2 and noise, save our environment.

Officer response: The Local Planning Authority is only able to consider the noise impact resulting from the installation of inlet and extract duct covers for a ventilation system. No objection on noise or pollution grounds have been raised by the Council's Resilience & Enforcement Team who have assessed the application, note that there is a condition which restricts the time of the ventilation system to ensure that there is minimal impact to neighbouring residential properties.

- Impact on local businesses: The arrival of new food restaurants or takeaways could pose a direct threat to the survival of existing local businesses. Small independent establishments may struggle to compete against large chains or franchises, potentially leading to unemployment and a decline in the local economy. Protect the unique character and well-being of our community by preventing any further food restaurants or takeaways from being opened on the Three Tuns parade. Sustainable urban development should prioritise the collective good over short-term individual gains.

Officer response: Business competition is not a material planning consideration, notwithstanding this, the use is not being applied for within this application and therefore any comments relating to the use cannot be taken into account.

- There are residential flats above.

Officer response: It is acknowledged that there are residential flats above the ground floor commercial unit, a condition has been attached to ensure that the operating time of the ventilation system should be no later than 11pm as the ambient noise in the area drops which will make the extraction system the prevailing source of noise later at night.

6.0 **Consultations**

6.1 **SBC Resilience & Enforcement Team:**

“Based on the specification there would not be grounds to refuse as it is in line with industry standards, however a large part of this is on the basis the system is being installed on anti-vibration mounts as to stop the transmission of sounds through the fabric of the building into the residential properties. With the compact side of the systems the odour controls would work with a regular maintenance program in place for the cleaning and renewal of filters.”

The operating time of the system should be no later than 11pm as the ambient noise in the area drops which will make the extraction system the prevailing source of noise later at night.”

PART B: PLANNING APPRAISAL

7.0 Policy Background

7.1 National Planning Policy Framework (December 2023) and National Planning Policy Guidance:

Section 2: Achieving sustainable development

Section 4: Decision-making

Section 6: Building a strong, competitive economy

Section 8: Promoting healthy communities

Section 12: Achieving well-designed places

7.2 The Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document, December 2008

Core Policy 1 – Spatial Strategy

Core Policy 5 – Employment

Core Policy 8 – Sustainability and the Environment

Core Policy 9 – Natural and Built Environment

Core Policy 12 – Community Safety

7.3 The Adopted Local Plan for Slough 2004 (Saved Policies)

EN1 – Standard of Design

EN5 – Design and Crime Prevention

EMP2 - Criteria for Business Development

7.4 The Proposed Spatial Strategy (Nov 2020)

Under Regulation 18, the Proposed Spatial Strategy for the Local Plan for Slough was the subject of public consultation in November 2020. This set out a vision and objectives along with proposals for what the pattern, scale and quality of development will be in Slough. The consultation document contained a revised Local Plan Vision which supports the Council’s vision for Slough as a place where people want to “work, rest, play and stay.”

It should be noted that the consultation document for the Proposed Spatial Strategy does not contain any specific planning policies or allocate any sites. It made it clear that the existing planning policy framework for Slough would remain in force until replaced by new Local Plan policies in the future. Nevertheless, it sets out the most up to date statement of the Council’s position with regards to strategic planning issues. As a result, it is relevant for the consideration of this application

(but only very limited weight can be afforded to the specific and strategic guidance therein).

7.5 Slough Local Development Plan and the NPPF

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. Annex 1 to the National Planning Policy Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The revised version of the National Planning Policy Framework (NPPF) was published in December 2023.

The National Planning Policy Framework 2023 states that decision-makers at every level should seek to approve applications for sustainable development where possible and planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Planning Officers have considered the revised National Planning Policy Framework 2023 which has been used together with other material planning considerations to assess this planning application

7.6 Equality Act

In addition, Section 149 of the Equality Act (2010) which sets a Public Sector Equality Duty (PSED) came into force in April 2011 and requires the Council to consider the equality impacts on all protected groups when exercising its functions. In the case of planning, equalities considerations are factored into the planning process at various stages. The first stage relates to the adoption of planning policies (national, strategic and local) and any relevant supplementary guidance. In coming to a recommendation, officers have considered the equalities impacts on protected groups in the context of the development proposals as set out below in this report.

7.7 The planning considerations for this proposal are:

- Principle of development
- Impact on the character and appearance of the area
- Impact on amenity of neighbouring occupiers
- Planning Balance
- Equalities Considerations

8.0 **Principle of development**

- 8.1 The use of the premises is not for determination, as the last previous lawful use was as a hairdressers' shop and the intended operation would be a café/restaurant. Therefore, there would be no change of use under the Use Classes Order in force at this time – i.e. the previous and the intended uses each fall under Class E under permitted development and therefore planning permission is not required for the use.
- 8.2 The proposals are only for the duct (inlet/outlet) covers. This entails the insertion of an inflow and an extract duct facing cover on the external rear facing ground floor elevation.
- 8.3 As such, the concerns expressed by neighbours in relation to the numerous similar food outlets is not a material matter for this assessment.
- 8.4 However, all new commercial development proposals, including works as proposed or extensions, have to comply with the design and other relevant policies contained in the Local Plan. Policy EMP2 will be applied to all employment generating development proposal to determine their suitability.
- 8.5 Policy EMP2 sets out the overriding criteria for business development, of which a), b), g) and h) are appropriate in this case, these are noted below:
- a) high quality design and appropriate use and scale
 - b) no physical or visual harm – no significant loss of amenities as a result of noise or level of activity
 - g) does not reduce the variety and range of business premises
 - h) no net loss of residential accommodation
- 8.6 It is considered that the proposed duct covers would not affect the variety and range of business premises in the local area or the wider area beyond. As such, it is considered that the development proposals comply with EMP2 (g).
- 8.7 It is considered that the proposed duct covers would not result in a loss of residential accommodation. As such, it is considered that the development proposals comply with EMP2 (h).
- 8.8 The other two criteria (a & b) are dealt with in detail below, but the overall conclusion is that subject to those matters, there is no objection to the principle of the ventilation system for the building.
- 8.9 Furthermore, it is noted that paragraph 85 of the NPPF 2023 sets out that planning decisions should help create the condition in which business can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking

into account both local business needs and wider opportunities for development. The proposal accords with the aim of the NPPF and being a response to a current need should be supported.

- 8.10 So, having regard to the National Planning Policy Framework 2023 and the Local Development Plan, there are no objections to the principle of a vents at the application premises.

9.0 **Impact on the character and appearance of the area**

- 9.1 The National Planning Policy Framework 2023 (paragraphs 131 and 135) encourages new development to be of a high-quality design that should be compatible with their site and surroundings. This is reflected in Core Policies 8 and 9 of the Core Strategy, and Local Plan Policy EN1.

- 9.2 The scheme involves two louvre covers – one 650mm by 650mm over the intake and the other 550mm by 550mm over the extract – each are related to an internal system to serve the intended use of the premises as a restaurant/hot-food take-away.

- 9.3 It is noted that at the rear of the parade, extensive ducts, as well as, air conditioning units with fans, have been installed on several of the premises, including that adjacent at 125 Bath Road. These are prominent in the scene of the locality.

- 9.4 The proposed covers would be on the rear elevation at ground floor level. In comparison the proposed vent covers would be relatively inconspicuous. The positioning of the covers would not harm the visual amenities of the area.

- 9.5 Based on the above, it is considered that the development proposals comply with EMP2 (a) and (b – in so far as it relates to visual amenities).

- 9.6 Therefore, it is considered that these current proposals would comply with the requirements of the National Planning Policy Framework 2023, Policy EN1 of the Local Plan for Slough March 2004 (Saved Policies), Core Policies 8 and 9 of The Slough Local Development Framework Core Strategy 2006-2026 Development Plan Document (2008).

10.0 **Impact on amenity of neighbouring occupiers**

- 10.1 The National Planning Policy Framework 2023 encourages new work to provide a high quality of amenity for all existing and future occupiers of land and buildings. This is reflected in Core Policy 8 of the Core Strategy and Local Plan Policy EN1.

- 10.2 As stated above, the entire parade has residential accommodation on the upper floors, including the upper floor of the application premises,

which is accessed from the rear by an open exterior set of metal stairs that serves two flats. The proposed inlet and extract covers would be installed at ground floor level flush with the face of the building.

- 10.3 The Council's Resilience & Enforcement Team has reviewed the submitted documentation relating to the noise and odour controls of the system to be installed at the application premises. They have advised that based on the specification there would not be grounds to refuse, as it is in line with industry standards. Their satisfaction is subject to the mounting arrangements and the cessation of the use of the ventilation system by 23:00 hours. Appropriate conditions are set out in the recommendation below.
- 10.4 The concerns expressed by objectors in relation to the environmental impact of the use have to be focussed on the matter for determination; namely, the installation of the duct inlet and extract covers. The observations of the Resilience & Enforcement Team address this matter. The ventilation system is deemed appropriate for the purpose of ensure noise and odours are satisfactorily dealt with in this case.
- 10.5 Based on the above, it is considered that the development proposals comply with EMP2 (b) - in relation to impacts on general amenities.
- 10.6 In conclusion, it is considered that there would not be harm for neighbouring properties and therefore the proposal is considered to be consistent with Core Policy 8 of the Local Development Framework Core Strategy and Policy EN1 of the Adopted Local Plan, and the requirements of the National Planning Policy Framework 2023.

11.0 Planning Balance

- 11.1 On balance, it is considered that the proposals are acceptable subject to the controls required by the terms of the conditions of this planning permission.

12.0 Equalities Considerations

- 12.1 Throughout this report, due consideration has been given to the potential impacts of development, upon individuals either residing in the development, or visiting the development, or whom are providing services in support of the development. Under the Council's statutory duty of care, the local authority has given due regard for the needs of all individuals including those with protected characteristics as defined in the 2010 Equality Act (e.g.: age (including children and young people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In particular, regard has been had with regards to the need to meet these three tests:

- Remove or minimise disadvantages suffered by people due to their protected characteristics;
- Take steps to meet the needs of people with certain protected characteristics; and;
- Encourage people with protected characteristics to participate in public life (et al).

12.2 It is considered that there will be temporary (but limited) adverse impacts upon all individuals, with protected characteristics, whilst the development is under construction, by virtue of the construction works taking place. People with the following characteristics have the potential to be disadvantaged as a result of the construction works associated with the development e.g.: people with disabilities, maternity and pregnancy and younger children, older children and elderly residents/visitors. It is also considered that noise and dust from construction has the potential to cause nuisances to people sensitive to noise or dust. However, measures under other legislation covering environmental health should be exercised as and when required.

12.3 In conclusion, it is considered that the needs of individuals with protected characteristics have been fully considered by the Local Planning Authority exercising its public duty of care, in accordance with the 2010 Equality Act.

13.0 **PART C: RECOMMENDATION**

13.1 Having considered the relevant policies of the Development Plan set out below, and representations that have been received from consultees and the community, and all other relevant material considerations, it is recommended the application be delegated to the Planning Manager to approve subject to: Finalising conditions and any other minor changes

14.0 **PART D: LIST of CONDITIONS and INFORMATIVES**

1. Time Limit

The development hereby permitted shall be commenced within three years from the date of this permission.

REASON: To prevent the accumulation of planning permissions, and to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. Approved Plans

The development hereby approved shall be implemented only in accordance with the following plans and drawings hereby approved unless otherwise agreed in writing by the Local Planning Authority.

- (a) Drawing No. 2353/PL/01, Dated 10.07.2023, Recd On 06/09/2023
- (b) Drawing No. 2353/PL/02, Dated 10.07.2023, Recd On 06/09/2023
- (c) Drawing No. 2353/PL/03, Dated 10.07.2023, Recd On 06/09/2023
- (d) Drawing No. 2353/PL/04, Dated 10.07.2023, Recd On 06/09/2023
- (e) Specification on Extraction System by Powered Ventilation Limited, Dated 05/08/23, Recd On 06/09/2023
- (f) Email dated 19th December 2023 from agent regarding hours of operation.

REASON: To ensure that the site is developed in accordance with the submitted application and to ensure that the proposed development does not prejudice the amenity of the area in accordance with the requirements of the National Planning Policy Framework 2023 and to comply with the Policies in the Development Plan.

3. New finishes to external works

All new external work of making good shall be carried out in materials as set out in the application form and the drawings hereby approved.

REASON: To ensure a satisfactory appearance of the development so as not to prejudice the visual amenities of the locality in accordance with the requirements of the National Planning Policy Framework 2023 and Policy EN1 of The Adopted Local Plan for Slough 2004.

4. Hours of Operation

The use of the vents hereby approved shall be restricted outside the hours of 23:00 hours to 08:00 hours on Mondays - Sundays inclusive.

REASON: To protect the amenity of residents within the vicinity of the site in accordance with the requirements of the National Planning Policy Framework 2023 and Policy 8 of the Core Strategy for Slough Borough Council.

5. Maintenance

All ventilation plant shall be maintained in accordance with the manufacturer's specification to ensure that external noise generated by the plant or equipment shall not at any time exceed the ambient sound level as measured at the nearest residential accommodation at all times.

REASON: To protect the amenity of residents within the vicinity of the site in accordance with the requirements of the National Planning Policy

Framework 2023 and Policy 8 of the Core Strategy for Slough Borough Council.

INFORMATIVE

1 - It is the view of the Local Planning Authority that the proposed development does improve the economic, social and environmental conditions of the area for the reasons given in this notice; so it is in accordance with the National Planning Policy Framework.

2 – It is noted that the applicant intends to operate between the hours of 0500 hours and 2300 hours. It would not be lawful under the terms of the conditions of this planning approval to use their extract system after 2300 hours. The operator of the premises is to note that they may be face the liability to formal enforcement action under other legislation and/or regulations if they were to operate the premises without an acceptable extract system.