

**AGENDA ITEM**

**COMMITTEE:** DEVELOPMENT CONTROL

**DATE:** 25TH APRIL 2007

**SUBJECT:** 256 CAPABILITY GREEN - CHANGE OF USE OF  
GROUND FLOOR OF UNIT F TO SANDWICH  
BAR/COFFEE SHOP. (APPLICANT: MR M.  
CLEAVER)  
(APPLICATION NO: 07/00174/COU)

**REPORT BY:** DEVELOPMENT CONTROL MANAGER

**CONTACT OFFICER:** DAVID GAUNTLETT 546317

**IMPLICATIONS:**

LEGAL	COMMUNITY SAFETY
EQUALITIES	ENVIRONMENT
FINANCIAL	CONSULTATIONS
STAFFING	OTHER

**WARDS AFFECTED:** SOUTH

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**PURPOSE**

1. To advise Members of a current application for planning permission and to seek their decision.

**RECOMMENDATION(S)**

2. That planning permission is granted subject to the following conditions: -

- (01) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.

*Reason: To limit the duration of the permission in accordance with the provisions of Sections 91-96 of the Town and Country Planning Act, 1990.*

- (02) The ground floor of the unit the subject of this permission shall be used as a sandwich bar/coffee shop only and for no other purpose including any other purpose within Use Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987. The use shall not extend to include the cooking and sale of hot food for consumption on or off the premises without the prior written permission of the Local Planning Authority.

***Reason: To enable the Local Planning Authority to exercise proper control over the development proposed, in the interests of securing a satisfactory standard of work and of safeguarding the amenities of the surrounding area. To accord with the objectives of Policy(ies) LP1, S1, ENV15 and EM1 of the Luton Local Plan.***

- (03) No alterations to the external appearance of the building(s), other than any alterations approved under this permission, shall be carried out without the prior permission of the Local Planning Authority.

***Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policy(ies) LP1 and ENV9 of the Luton Local Plan.***

## **REPORT**

### **The Site and Surroundings**

3. The subject site area is the ground floor of Unit F, a small unit with a floor space of 91sq.m. The unit is part of a newly erected development consisting of 9 units in total located in 5 blocks of similarly designed buildings. The buildings are located in the southern part of Capability Green, which is identified as a Key Employment Site on the Local Plan Proposals Map. The buildings have been erected recently as B1 (office) units.

### **Relevant Planning History**

4. Planning permission was granted in March 2005 for the erection of 9 two storey office units located in 5 blocks.

### **The Proposal**

5. The use proposed was originally described as a café but, after further clarification, the applicant has confirmed that there will be no major cooking occurring at the premises. There will be coffee machines and a small microwave and grille for the heating of paninis/bagels. However the majority of food to be served will be cold. The description has been amended with the application being for the change of use of the premises to a sandwich bar/coffee shop.

## Planning Policy

6. The subject site is located within a Key Employment area as defined on the Local Plan Proposals Map. Therefore as the proposed change of use is to provide a sandwich bar/coffee shop, it is not a priority use within this area and consequently represents a departure from the plan. Policies LP1 and EM1 are of relevance.
7. Policy LP1 sets out a sustainable development strategy for the Borough and;
8. Policy EM1 is specific to development occurring within Key Employment Areas.

## Consultation Responses

9. *Highway Development Manager:* No highway implications are anticipated.
10. *Strategic Planning:* This development would result in the loss of business/ general industry employment land for which the Capability Green site was allocated in the adopted Local Plan. Therefore the applicant should demonstrate why a change in land use is of long-term benefit to the area, satisfying sections C (i), C (ii) of Policy EM1. Consideration should also be given to effects on neighbouring amenity from the preparation and sales of food (especially smells and waste material) in order to comply with Section F of Policy EM1. Consideration should be given to the local area with regard to: Loss of industrial employment land, effects on neighbouring amenity, enhancing the appearance of the land, effects on access and highway matters.
11. *Environmental Protection:* Unfortunately there are insufficient details submitted regarding the ventilation system to enable a proper assessment to be made of its effectiveness to prevent the risk of odour and noise nuisance (It has since been confirmed by the Environmental Protection Service that the intention to provide cold foods addresses these concerns).
12. *London Luton Airport:* No comments have been received.

## **MAIN PLANNING CONSIDERATIONS**

### Policy Implications

13. Policy EM1 covers the requirements for development occurring within Key Employment Areas. This policy states that planning permission will be granted provided that the development can meet the requirements of paragraphs [A] to [G] where appropriate. The Strategic Planning Group has stated that the applicant should provide justification for a departure from development plan policy. The applicant has provided a letter of justification and this is attached to the Report at Appendix 1.
14. Having regard to the content of the applicant's letter and to observation of the current land use mix at Capability Green, it appears that there is a distinct lack of ancillary facilities available to employees on site. The proposed development is therefore considered to meet a demonstrable need. It should also be noted that the application relates only to 91 square metres of floorspace and the loss of the unit from potential B1

use will have an insignificant effect on the employment function of Capability Green as a whole.

#### Acceptability of Proposed Development

15. Capability Green is a large Employment Area serving a diverse range of business uses. Whilst some of the larger units have in-house canteens, many of the employees of smaller units have to travel away from the site at break and lunch times. The Park Management bans food vans from the site, and the provision of an on-site service would increase the range of food available to employees, which may discourage them from leaving the site. The applicant has stated that a widespread survey was carried out in order to assess the level of need with positive feedback being received, although no evidence has been provided to back this up other than a letter received from the Park Management (See Appendix 2).

16. The original permission for the development of Capability Green (L/16154/M/0) was for the development of the land for B1 uses with ancillary retail and amenity uses including on-site catering facilities.

17. In light of the original permission, it would seem that, in the absence of any other similar facilities at present, the provision of a small independent catering facility on the site could be seen as acceptable and indeed, necessary for the Capability Green development.

#### Street Scene Impact

18. The applicant has no plans at this stage to alter the appearance of the building and therefore the street scene is not subject to change. He has enquired about the possibility of erecting an awning or signage in the future and has been advised that planning permission would be required. A condition to ensure future control of any external changes is recommended for inclusion if permission is granted.

#### Impact on Adjoining Occupiers

19. There will be an element of odour created by the fresh coffee that will be sold from the premises but this is not likely to cause nuisance to adjoining occupiers. No major cooking plant is required with the majority of snacks and sandwiches that are to be provided being cold and already prepared. There will be a toaster and panini grille, but this is not considered to warrant a need for a ventilation system in this instance.

20. It is envisaged that extending the use to provide hot food may have a detrimental impact on the adjoining occupiers by reason of odour pollution. Therefore Condition 2 is proposed, to ensure that the Council can maintain control over the use of the unit.

21. The proposed use may result in a high level of movement to and from the unit and there will be tables within the premises. This should result in a good level of activity and vibrancy being generated. There will be some level of noise as a result of this, but not to a level that will affect the adjoining uses when occupied.

## Parking

22. Like all units, Unit F has three spaces to the front of the building (one for disabled users), with an additional 45 (approximately) being shared between the 9 units. Whilst parking is not considered to be a problem on the business park, Unit F is within easy walking distance to all areas, which is anticipated to be the preferred method of transport.

## **CONCLUSIONS**

23. Whilst the proposed development represents a departure from the Luton Local Plan, such a use has been previously considered to be acceptable on the site. The applicant has provided information to show that the proposed use is needed and therefore acceptable and the Park Management have shown their support. In addition the loss of employment land will be minimal given the modest size of the ground floor of the unit. Therefore it is considered that planning permission can be granted in this instance.

## **LIST OF BACKGROUND PAPERS**

### **LOCAL GOVERNMENT ACT 1972, SECTION 100D**

- 24. Luton Local Plan 2001 – 2011.
- 25. LBC application reference: L/16154/M/0.
- 26. LBC application reference: 04/01038/VARCON.