

Item No. 1.5

Ref. No. DMPA/2019/0891

Valid date: 30/07/2019

Applicant:

Taylor
Indigo Sun Retail Ltd

Agent:

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Proposal: Change of use from retail unit to sunbed salon (Sui Generis) (re-submission of withdrawn application ref. 9/2019/0213) at Unit A & Part B, Aldi Development, Swarkestone Road, Chellaston, Derby, DE73 6WS

Ward: Aston

Reason for committee determination

The item is presented to Committee because the application does not strictly comply with Local Plan Policy RTL1 but the Committee needs to take into account other material considerations.

Site Description

The site forms part of the recently completed local centre which is located within the Chellaston Fields site, a new housing development of approx. 450 dwellings which is currently still under construction. The design of the local centre follows pre-application work to create an active frontage at the entrance of the site and located off the main access road. The building and shopfronts and the larger retail unit which is now occupied by an Aldi supermarket take on a contemporary appearance, with grey white and red cladding, which matches colours of the first dwellings within the site and complement the approach into the site as well as contrasting with the more traditional housing design ethos.

The proposal

A change of use is proposed to Unit A and a small part of Unit B from retail (Use Class A1) to a sunbed salon (Use Class Sui Generis). No external alterations to the unit are proposed as part of this application.

Applicant's supporting information

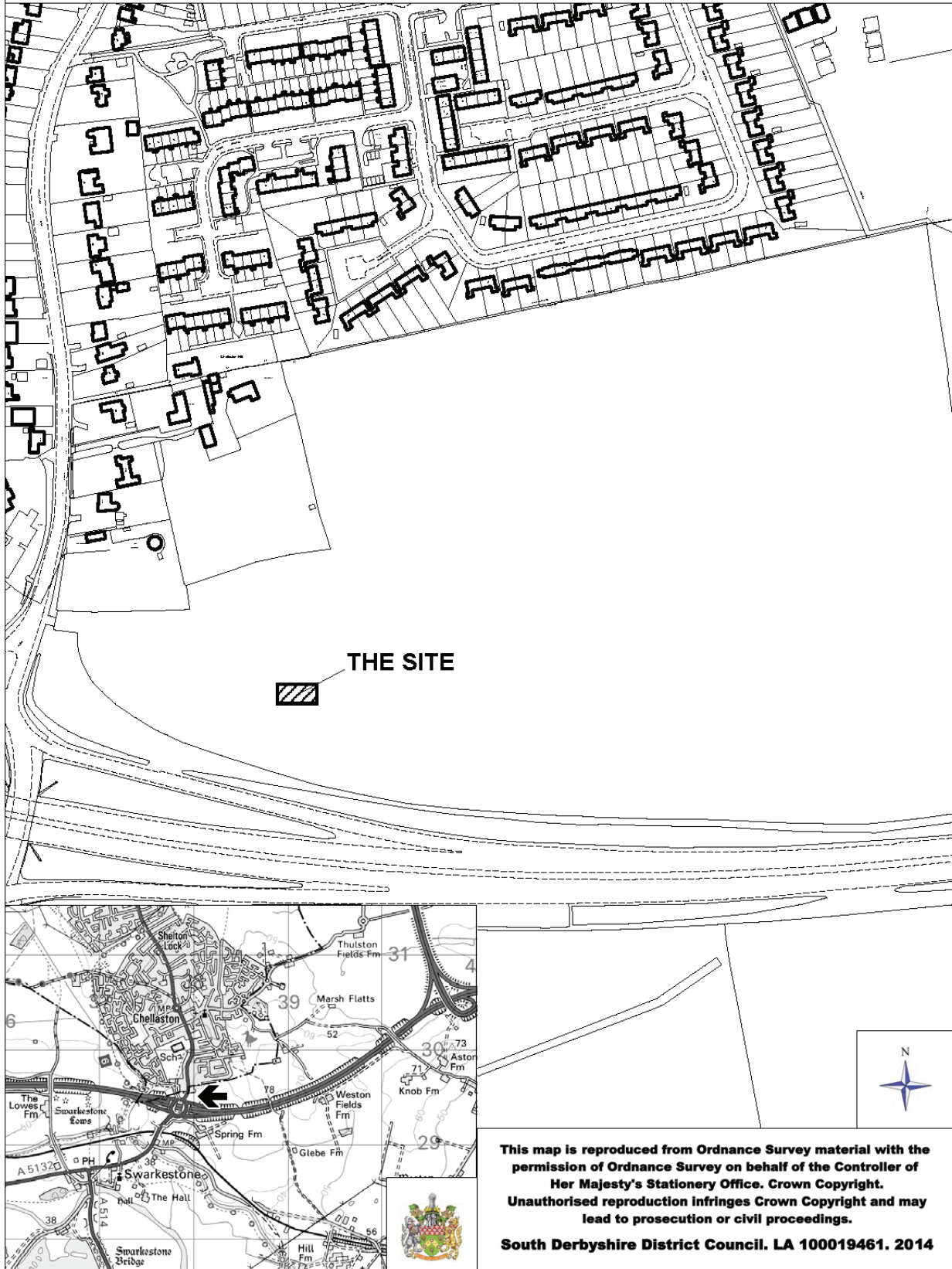
Supporting Marketing Evidence has been submitted to demonstrate that the unit has been fully marketed for a period of 6 months; this includes a report detailing all of the enquiries received and a supporting statement that details the benefits of a sunbed salon within the local centre.

Relevant planning history

9/2012/0568 - Outline application with all matters reserved (except for access) for up to 450 dwellings including the provision of a small discount supermarket (A1 use 1,650sqm), local centre comprising of no more than five individual units (A1/A2/A3 use totalling 1,650sqm), day nursery (D1 use - 450sqm) primary school and open space. Approved 26/01/15.

9/2016/1208 - Erection of a discount foodstore (use class a1) and three units (use classes A1, A2 and A3) collectively forming a local centre associated customer and service access, car parking and landscaping. Approved 06/10/17.

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9/2018/0046 - The variation of condition 23 of planning permission ref: 9/2016/1208 (relating to Erection of a discount foodstore (use class a1) and three units (use classes A1, A2 and A3) collectively forming a local centre along with associated customer and service access, car parking and landscaping. Approved 12/04/18.

9/2018/0655 - The erection of a Costa Coffee outlet with drive through and car parking - Granted 26/10/2018.

Responses to consultations and publicity

The County Highway Authority has raised no objections.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S7 (Retail); H14 (Chellaston Fields, Chellaston); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); INF2 (Sustainable Transport); BNE3 (Biodiversity); and BNE1 (Design Excellence)
- Local Plan Part 2 (LP2): RTL1 (Retail Hierarchy)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue(s) central to the determination of this application are:

- Principle of Development
- Neighbouring Amenity ; and
- Highway Safety

Planning assessment

Principle of Development

The retail unit is currently vacant. Condition 3 of application 9/2016/1208 restricting the retails units to Use Class A1, A2, A3 and A5 and for no other purpose, to ensure that this area of the site was disposed of for primarily a retail use and which has now been fully constructed. Although only four use classes are listed in the previous condition, it does not mean that other use classes would not be acceptable in principle. Although the proposed sui generis use is not listed, given the similarities in character of the use as a sunbed salon when compared to other uses falling within the retail use classes (e.g a hair salon), it is considered to be acceptable in principle and indeed could attract linked trips to the other units, helping to improve the retail sustainability of the centre as a whole.

Map 2 of Policy RTL1 identifies the proposed local centre within the Chellaston Fields site, which has now been built out. Part F of Policy RTL1 refers to the loss of retail within local centres; it states that

that the loss of retail units in centres will be permitted where:

- i) The current use can be demonstrated to be no longer viable; and*
- ii) The unit has been sufficiently and actively marketed for a range of retail uses over a 6 month period; and*
- iii) The impacts arising from the resulting use do not cause an adverse effect on amenity, parking needs or highway safety.*

As a result of this requirement supporting marketing evidence has been submitted as part of this application. However the enquiry report submitted which states that marketing of the units began on 12th November 2018 does not provide the dates of which the enquiries were made, also from the evidence provided it is clear that the letting of the unit in question was agreed to Indigo Sun, prior to the unit being marketed for a period of 6months. Therefore it is considered that the marketing evidence submitted fails to demonstrate that the current retail use of the unit is no longer viable as such it is considered that the proposal does not fully comply with policy RTL1.

Notwithstanding this, it is considered that the proposed use would be of benefit to residents occupying the site and is considered to be sustainable development that would support the needs of a growing community, as the site continues to be built out and the local population increases. With other units within the local centre also under the retail use class, if permission was granted as a sunbed salon, it would allow for a more mixed use local centre and community hub, with residents on the site being able to walk to their appointments and also use the other retail units before or after. It is therefore considered that the proposed change of use would be a sustainable business location for what is currently a vacant unit within the local centre, being within walking distance of many new dwellings and therefore is supported by Policy S2. In addition the occupation of a unit would ensure that jobs are provided, helping to boost the local economy and the sustainable growth of the area.

Neighbouring Amenity

The applicant proposes that the opening hours of the unit would be 0900 to 2200, Monday to Friday. 0900 to 2100 Saturday and 1000 to 2100 Sundays and Bank Holidays, which is similar to the hours of operation for the supermarket. It is considered that the proposed business hours and subsequent noise/traffic generated as a result of the change of use would not unduly impact on the amenity of neighbouring properties adjacent to the site with the nearest dwelling being approx 70m away, and no more so than the current permitted retail use; and as such the proposed use is considered to comply with Policy SD1 and iii) of part F of Policy RTL1.

Highway Safety

There are no car parking spaces included within the red line of the application site, as shown on the location plan. However the local centre overall includes 135 car parking spaces. It is noted that the County Highway Authority raises no objection to the proposal. It is therefore considered that the car parking to the front of the site already provided for the local centre is sufficient parking provision for the requirements of the change of use and as such it is considered that the proposal complies with Policy INF2 and iii) of part F of Policy RTL1.

Conclusion

Although technically the applicant has failed to demonstrate that the current retail use is no longer viable for the location and therefore not compliant with Policy RTL1, when considering the planning balance, the benefits of adding a sunbed salon to the newly constructed housing that surrounds the site, would outweigh the negative impacts of the potential loss of a retail unit within the local centre.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and

Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

GRANT permission subject to the following conditions:

- 1 The development hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2 The development hereby permitted shall be carried out in accordance with Drawing No PR(2-) 01 Rev C and the Location Plan; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the proposed change of use shall be used only for a sunbed salon (Use Class Sui Generis) and for no other purpose.

Reason: Only the approved use has been considered in establishing whether the proposal would have acceptable impacts in this location, and other uses would require further detailed consideration by the Local Planning Authority.

- 4 The premises shall not be open to the public other than between 0900 hours and 2200 hours Mondays to Fridays, between 0900 hours and 2100 hours on Saturdays, and between 1000 and 2100 Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers and/or in the interests of highway safety.

Informatives:

- a. The applicant is advised to contact the Council's Licensing and Environmental Health Department as certain beauty treatments require registration with the Council before they can commence.