

PLANNING APPLICATION FOR THE CHANGE OF USE FROM USE CLASS A1 (RETAIL) TO USE CLASS A5 (HOT FOOD TAKEAWAY) AND ASSOCIATED WORKS

PLANNING STATEMENT

130 CHARING CROSS ROAD, LONDON, WC2H 0LA

ON BEHALF OF MR OMAR SHALABY

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004**

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PLANNING | **DESIGN** | **ENVIRONMENT** | **ECONOMICS**

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1. INTRODUCTION

- 1.1 This Statement has been produced on behalf of Mr Omar Shalaby and supports a full planning application proposing a change of use of the ground floor of 130 Charing Cross Road, London, from Use Class A1 (retail) to Use Class A5 (hot food takeaway).
- 1.2 The following sections of this Statement identify the relevant issues pertinent to the consideration of the application submission and include:
- A description of the application site and the surrounding area, and details of the sites recent planning history
 - A description of the application proposals
 - An overview of relevant planning policy
 - An assessment of the application proposals against the Development Plan, and relevant material considerations such as the NPPF
- 1.3 In accordance with statutory and local information requirements the following supporting material is submitted and will enable a full assessment of the proposals to be undertaken:
- Site Location Plan-130CC-101 1
 - Block Plan- 130CC-102 1
 - Existing Floor Plan- 130CC-103
 - Proposed Floor Plan- 130CC-104 01
 - Proposed Elevations-130CC-105, 130CC-106, FR-CC-M001 P3
 - Noise Assessment (KP Acoustics)
 - Extraction Details (Fan Rescue)
- 1.4 Overall this statement will demonstrate that the proposed development is in accordance with the Development Plan, and other material considerations, such as the NPPF, and will show that there are no planning reasons that would prevent planning permission being awarded. It is therefore respectfully requested that planning permission should be granted.

2. SITE DESCRIPTION, CONTEXT AND PLANNING HISTORY

- 2.1 The application site comprises of a ground floor retail unit, which is located within a row of ground floor units fronting on to Charing Cross Road, all forming part of a large eight storey building. Residential development is located on the upper floors of the building. The application site has been previously used for Class A5 purposes for a number of years, as demonstrated later in the planning history section.
- 2.2 In the context of the recently adopted Local Plan, which was adopted on the 3rd July 2017, the site is located on a 'Secondary Frontage' within the designated 'Tottenham Court Road/Charing Cross Road Central London Frontage'.
- 2.3 Charing Cross Road comprises predominantly of retail units, along with other 'town centre uses' such as restaurants, cafes and takeaways, which add to the vitality of the Road and complement its function. 130 Charing Cross is located within a row of five units (including the application site). Three of the units (126, 128 and 134 Charing Cross Road) are in lawful Class A1 retail use, with the application site also having certified A1 use. There is no extant planning permission to change the use of any of these units from Class A1 use to any other use. 136 Charing Cross Road appears to be operating as a café / hot food takeaway under the name of 'Apricot Food Bar'. Notably the planning history of 136 Charing Cross Road records an application (ref. 2011/2824/P) to change the use of the unit from Class A1 to Class A3/A5 use which was withdrawn in 2011. There is no record on the Council's website of any application to lawfully change the use of 136 Charing Cross Road since that date. This would therefore suggest that the lawful use of the unit is Use Class A1, and that the existing unit is trading as an A3/A5 unit on an unauthorised basis. It is therefore clear that all 5 of the units within this row should lawfully be operating under Use Class A1.
- 2.4 The site is located within the Denmark Street Conservation Area. Existing access into the site is provided from the frontage along Charing Cross Road.
- 2.5 The site is located in a highly sustainable location with excellent access to sustainable modes of travel. As identified on the Transport for London website, the site has a Public Transport Accessibility Level (PTAL) score of 6b, the highest of all scores. The nearest Tube Station is Tottenham Court Road, located approximately 100m to the north-west of the site.

- 2.6 Located within a Central London Frontage, which provides a wide range of services and facilities that serve the local population, the site provides a suitable and sustainable location for the proposed A5 use.

Planning History

- 2.7 The relevant planning history of the site is as follows (starting with the earliest applications):

- **2013/4035/P** - *Certificate of Lawfulness (Existing) - Use as restaurant (Class A3) and take away (Class A5)* - Decision: Withdrawn July 2013
- **2013/7945/NEW-** *Current Enforcement, waiting for further advice* - Decision: Withdrawn December 2013
- **2014/3344/P-** *Change of use from Class A1 to Class A3 for a temporary period of two years (from 15/06/2014 to 16/06/2016)* - Decision: Notified May 2014
- **2015/2945/P-** *Change of use from A1 (Retail) to A5 (hot food take-away) Retrospective* - Decision: Refused and Warning of Enforcement Action to be Taken 19th August 2015

3. PROPOSED DEVELOPMENT

- 3.1 The proposal consists of a change of use from Use Class A1 (retail) to Use Class A5 (hot food takeaway) and associated works.
- 3.2 No external changes are proposed to the front elevation. It is proposed that an extraction unit to adequately dispose of odours generated on site will be provided on the rear elevation. This will be in the form of an intake louvre, extraction duct and extraction flue. It is proposed that the extraction flue will discharge the fumes at 1m above the eaves of the building. Full technical details of the extraction unit, including the proposed location of the unit on the rear elevation, are submitted with this planning application.
- 3.3 Existing access is taken via Charing Cross Road. No changes to access arrangements are proposed, with access remaining as existing.
- 3.4 No other changes are proposed with the planning application, with the application seeking approval for the change of use of the unit to Use Class A5 and its associated extraction unit.

4. RELEVANT PLANNING POLICY

- 4.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act, applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

DEVELOPMENT PLAN

- 4.2 The Development Plan for the area currently consists of the 2017 Camden Local Plan, which was adopted on the 3rd July 2017 and the London Plan, adopted March 2016.

Camden Local Plan (Adopted 2017)

- 4.3 The Camden Local Plan contains both the strategic and detailed planning policies which will guide development in the borough up to 2031.
- 4.4 Charing Cross Road is identified as being located within the Tottenham Court Road/Charing Cross Road/New Oxford Street Central London Frontage on the adopted Proposals Map. The site is also designated as a Secondary Frontage within this Central London Frontage.
- 4.5 **Policy TC1** (Quantity and location of retail development) discusses how the Council will promote the distribution of retail and other town centre uses across the borough, and that significant provision will be targeted towards the Tottenham Court Road Central London Frontage.
- 4.6 **Policy TC2** (Camden's centres and other shopping areas) discusses how the Council will promote successful and vibrant centres throughout the Borough. The Council will provide for and maintain, a range of shops including independent shops, food, drink and entertainment uses and other suitable uses, to provide variety, vibrancy and choice. Additionally, the Council will:
- Make sure that food, drink, entertainment and other town centre uses do not have a harmful impact on residents and the local area, focusing such uses to areas including the Central London Frontages.
 - Pursue the individual planning objectives for each centre, as set out in the Camden Planning Guidance 5: Town Centres, Retail and Employment SPD.
- 4.7 Policy TC2 later discusses how the Council has designated primary and secondary frontages, as shown on the Local Plan Policies Map. The Council will protect the

secondary frontages as locations for shops (A1) together with a broader range of other town centre uses to create centres with a range of shops, services, and food, drink and entertainment uses which support the viability and vitality of the centre.

- 4.8 **Appendix 4** of the Local Plan relates to Policy TC2, and outlines the Council's expectations for the mix and balance of uses within frontages for each designated centre. For secondary frontages within the Tottenham Court Road (and Charing Cross Road) Central London Frontage, a minimum of 66% of the units within an individual frontage should be within A1 use.
- 4.9 **Paragraph 9.31** of the Local Plan later discusses how the preferred location of food, drink and entertainment uses is secondary frontages.
- 4.10 **Policy TC4** (Town centre uses) discusses how the Council will ensure that the development of food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. Amongst other matters, the Council will consider:
- b. the cumulative impact of food, drink and entertainment uses, taking into account the number and distribution of existing uses and non-implemented planning permissions and any record of harm caused by such uses;
 - c. the Council's expectations for the mix and balance of uses within the frontages for each Centre are set out in Appendix 4;
 - f. the health impacts of development;
 - g. the impact of the development on nearby residential uses and amenity, and any prejudice to future residential development;
 - h. parking, stopping and servicing, and the effect of the development on ease of movement on the footpath;
 - i. noise and vibration generated either inside or outside of the site; and
 - j. fumes likely to be generated and the potential for effective and unobtrusive ventilation.

- 4.11 Policy TC4 discusses how to manage potential harm to amenity on the local area, the Council will in appropriate cases use planning conditions and obligations to address a number of issues. This includes hours of operation, noise/vibration, fumes and community safety.
- 4.12 **Policy A1** (Managing the impact of development) discusses how the Council will seek to protect the quality of life of occupiers and neighbours. Planning permission will be granted for development unless this causes unacceptable harm to amenity. The factors which the Council will consider, amongst other matters, will include noise, vibration levels, transport impacts and odour.
- 4.13 **Policy A4** (Noise and vibration) discusses how development should have regard to Camden's Noise and Vibration Thresholds contained at Appendix 3 of the Local Plan. The Council will not grant planning permission for development which is likely to generate unacceptable noise and vibration impacts. The Council will only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity. The Council will also seek to minimise the impact on local amenity from deliveries.
- 4.14 **Policy D2** (Heritage) discusses how the Council will require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area.

Camden Site Allocations Plan (September 2013)

- 4.15 130 Charing Cross Road is located within the wider St Giles Circus allocation, namely Site 16 in the adopted Camden Site Allocations Plan. The site allocation guidance for the St Giles Circus allocation outlines how development will be expected to redevelop buildings and sites to include a mix of uses appropriate to a Central London location, including retail, residential, office and leisure. Additionally, development should retain and provide active ground floor frontages to existing and proposed public spaces and streets.

London Plan (March 2016)

- 4.16 The consolidated version of the London Plan, adopted in March 2016, is also part of the Development Plan. No policies contained within the Plan are of specific relevance to this scheme.

OTHER MATERIAL CONSIDERATIONS

National Planning Policy Framework: NPPF

- 4.17 The applicant has given consideration to national policy contained in the National Planning Policy Framework (NPPF). The NPPF outlines some key policies that support aspects of this application. The NPPF identifies that the main purpose of the planning system is to contribute to the achievement of sustainable development, with regards to three dimensions, comprising of economic, social and environmental roles.
- 4.18 A core principle of the NPPF states that *"every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth"*.
- 4.19 **Paragraph 14** identifies that at the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-making. This means approving development proposals that accord with the development plan without delay.
- 4.20 Policies in Paragraphs 18 to 219 constitute the Government's views of what sustainable development in England means in practice; the most relevant paragraphs to this application are outlined below.
- 4.21 The NPPF very clearly underlines the Government's commitment to ensure that the planning system does everything it can to support sustainable economic growth. **Paragraph 19** states that *"significant weight should be placed on the need to support economic growth through the planning system"*.
- 4.22 **Paragraph 23** states that planning policies should be positive, promote competitive town centre environments that provide customer choice and support their vitality and viability, as well as set out policies for the management and growth of centres over the plan period.
- 4.23 In determining planning applications, Paragraph 196 states that the NPPF is a material consideration. Paragraph 197 reiterates that in assessing and determining proposals ***"local planning authorities should apply the presumption in favour of sustainable development"***.

National Planning Practice Guidance (NPPG)

- 4.24 The NPPG provides further guidance for the determination of planning applications for town centre uses, such as this. It states that local planning authorities should plan positively, to support town centres to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work. Town centre strategies should seek to manage decline positively to encourage economic activity and achieve an appropriate mix of uses commensurate with a realistic future for that town centre.

Camden Planning Guidance 5: Town Centres, Retail & Employment (2013)

- 4.25 Although not forming part of the Development Plan, the Camden Planning Guidance 5 is a material consideration in planning decisions.
- 4.26 Paragraph 4.9 of the document states that Central London Frontages are considered generally appropriate locations for new food, drink and entertainment uses, as they have good public transport provision and are busy, commercial streets with limited residential development.
- 4.27 Map 8 of the document confirms that the site is located along a Secondary Frontage within the Tottenham Court Road/ Charing Cross Road Central London Frontage.
- 4.28 Paragraph 4.17 confirms that planning permission for food, drink, and entertainment uses may be granted in this area, provided development does not result in a harmful concentration or cause harm to amenity, and does result in a reduction of A1 retail uses to less than two thirds (66%) of uses on the frontage.

Camden Planning Guidance 6: Amenity

- 4.29 Chapter 4 of this document, which relates to noise and vibration, is of relevance to this application. The document confirms that a detailed acoustic report will be required if development proposes the installation of plant, ventilation or air conditioning equipment. Accordingly, a detailed noise report has been submitted in support of this application.

- 4.30 Chapter 12 of the document discusses planning for healthy communities. A5 uses are discussed in this chapter, which reiterates the adopted policy position that new A5 uses will only be allowed in appropriate locations where their impact can be minimised.

5. ASSESSMENT OF PROPOSAL

Principle of development

- 5.1 The application proposes the change of use of a Class A1 ground floor unit to a hot food takeaway (Class A5). The unit has previously been used for A5 purposes for a number of years.
- 5.2 Situated within a Central London Frontage, the principle of a change of use to another 'town centre use' is entirely acceptable in this location. Policy TC2 of the adopted Camden Local Plan outlines how food, drink, entertainment and other town centre uses will be focused towards Central London Frontages and Town Centres. Bullet point f) of Policy TC2 outlines how the Council will protect identified Secondary Frontages as locations for shops (Class A1), together with a broader range of other town centre uses to create centres with a range of shops, food, drink and entertainment uses which support the viability and vitality of the centre. Paragraph 9.31 of the Local Plan also states that in order to protect the primarily retail role of Core Frontages, the preferred location of food, drink and entertainment uses is Secondary Frontages. The site is located within an identified Secondary Frontage, and is therefore a suitable location for a hot food takeaway (Class A5), subject to satisfying other policy criteria as outlined below.
- 5.3 Policy TC4 (Town Centre Uses) is the key local plan policy in the determination of this planning application. This policy, at bullet point c), notably refers to taking into consideration the Council's expectations for the mix and balance of uses within frontages, as set out in Appendix 4 of the Local Plan. Appendix 4 outlines that within the Secondary Frontages of the Tottenham Court Road Central London Frontage (to which the application site is located), a minimum of 66% of units within each individual frontage should be within Class A1 (retail) use. As discussed in Chapter 2 of this Planning Statement, all five of the units located within this individual frontage, including 130 Charing Cross Road, should be lawfully operating in A1 use when looking at the regularised planning position and any existing unit not in A1 use is operating on an unlawful basis. Given that all five units within this individual frontage are lawfully in A1 use, then the change of use of 130 Charing Cross Road to a hot food takeaway (Use Class A5) would ensure that the minimum threshold of 66% units being in A1 use would be met. 80% of the units within this individual frontage would remain in lawful A1 use as a result of the lawful change of the use of 130 Charing Cross Road to A5 use. As such, the proposals comply with the Council's aspired mix of uses for this area, as

set out in Appendix 4 of the Local Plan, with the proposal adding to the variety, vibrancy and customer choice of the area. The principle of the loss of a Class A1 unit is therefore entirely acceptable in relation to Development Plan policy.

- 5.4 Bullet point b) of Policy TC4 also states how the Council will consider the cumulative impact of food, drink and entertainment uses, taking into account the number and distribution of existing uses in the area. As discussed in Chapter 2 of this Statement, Charing Cross Road is home to a number of uses, including retail, office and leisure. As discussed above, no other lawful A5 units are in existence on the individual frontage to which the application site is located. No other A5 uses are located opposite the site, or indeed in close proximity to the site along Charing Cross Road. Development is proposed to the rear of the site, namely the St Giles Circus allocation site (approved pursuant to application ref. 2012/6858/P), however this development is not proposed to include A5 uses. There are other entertainment uses present, including public houses and restaurants further down Charing Cross Road, however these are not in abundance in close proximity to 130 Charing Cross Road. Indeed, many of the units in the direct vicinity of the site are in A1 use. As such, it is clear that the proposal development will not lead to an over-concentration of non-retail uses which would be the detriment of the vitality of the town centre.
- 5.5 Policy TC2 discusses other considerations, such as residential amenity and matters of noise, odours and the potential for crime. The proposal will not result in a detrimental effect on amenity as a result of odour, noise and disturbance, and this is discussed in more detail later in this Statement. It is considered that the proposed change of use is in keeping with the commercial character of the area, within this Central London Frontage, and will contribute to the area's vitality and viability. Details of provisions for the extraction of fumes and cooking odours are shown on the drawings submitted with this application.
- 5.6 Paragraph 23 of the NPPF is clear that planning policies should promote competitive town centres that provide customer choice and a diverse retail offer. The wider shopping area surrounding the site consists predominantly of A1 uses, with other non-retail town centre uses present in the area. There are existing lawful A5 or A3/A5 premises in the area, however these are further down Charing Cross Road and not within the immediate vicinity of the site. The introduction of a lawful A5 use would therefore complement the existing mix of uses in the area and add to local customer choice and offer.

- 5.7 Overall, the proposals will ensure that the minimum threshold of 66% of units within an individual frontage being in Class A1 use will be achieved. The proposal will result in 80% of the units on this individual frontage being in certified/lawful Class A1 use. The adopted Local Plan indicates that Secondary Frontages within Central London Frontages are the preferred locations for food, drink and entertainment uses, therefore in locations such as the application site. The proposal would also not lead to an over-concentration of food, drink and entertainment uses within the locale. As such, the change of use to A5 on this site is acceptable in principle.

Design, Amenity and Transport Issues

- 5.8 Details of provisions for the extraction of fumes and cooking odours have been submitted with this application. The proposed extraction duct and intake louvre are located on the rear elevation of the building, as shown on the submitted drawings. The duct and intake louvre have been carefully located in order to avoid disturbance with neighbouring properties. Located to the rear of the site, the proposed extraction equipment would be well hidden from views from neighbouring street scenes and would therefore not represent a visually intrusive feature in this location. In particular, there would be no visual impact on the Denmark Street Conservation Area. With no alterations proposed to the unit frontage along Charing Cross Road, as part of this application, it is clear that the proposal would have no impact on the character and appearance of the Denmark Street Conservation Area, and neighbouring street scene along Charing Cross Road. New advertisements will be subject to a separate application for advertisement consent.
- 5.9 The proposed extraction equipment is designed to a high-quality standard, with the technical details submitted as part of this application providing additional information for assessment of the technical elements. The extraction flue will discharge fumes at 1m above the eaves of the building. As a result of the careful location and high-quality design specification of the extraction equipment, the proposed use will have no detrimental impact on residential amenity as a consequence of odours.
- 5.10 Noise reports have been submitted as part of this planning application. The reports have assessed the noise impact of the proposals, including noise generated from the proposed extraction unit, and breakout noise and disturbance from the proposed use. The reports conclude that noise levels as a result of the

proposed development will fully comply with the London Borough of Camden's criteria and the requirements of the relevant British Standard, subject to the implementation of noise mitigation measures, as outlined in Section 5.3 of the submitted 'Planning Compliance Report' (KP Acoustics). These mitigation measures include the installation of an acoustic silencer and acoustic enclosure panels in order for the proposed extraction system to be acceptable in terms of noise. The reports conclude that no other measures are deemed necessary in order to protect the amenity of the nearest noise sensitive receiver. As such, the noise reports conclude that the proposals are acceptable from a noise perspective, and will not result in negative impacts on amenity.

5.11 The proposed opening hours of the use are as follows:

- Thursday – Saturday: 7am until 4:00am
- Sunday: 7am until midnight
- Monday: Wednesday 7am until 01:00am

5.12 These opening hours will encourage customers and footfall during daytime shopping hours, as well as contributing towards the evening economy. The noise reports conclude that these opening hours are acceptable from a noise perspective, with consideration to existing background noise levels in this area, and will therefore not result in negative impacts on the amenity of the residential properties located above the unit.

5.13 It is notable that the site is located within central London and is already subject to high levels of footfall throughout the day and night, with Soho located nearby which has both a vibrant day and night time scene. The unit will therefore capture passing trade within this high footfall area, as opposed to acting as a 'go to' facility where customers are travelling from further afield. It is therefore considered that the proposals are unlikely to generate large amounts of additional footfall which would impact on the existing amenity of residents in the area.

5.14 The proposals will not be accompanied by any parking spaces, as per the existing situation. This is considered entirely acceptable given the site's central London location, which has excellent links to sustainable modes of travel. Notably, as illustrated on the TfL website, the site has a Public Transport Accessibility Level (PTAL) of 6b. This is the highest possible scoring for access to public transport. Given the high PTAL rating, it is considered that customers will access the site via public modes of transport. As such, the proposal will not require parking, and there will be a negligible impact in traffic/transport terms.

- 5.15 The unit will not provide a home delivery service, with the unit only serving customers at the site. This further limits the traffic impact of the proposals. Deliveries of products to the unit are envisaged to occur once a week, at a time yet to be specified. If considered necessary, a planning condition can be attached to a permission to control deliveries on site.
- 5.16 No changes are proposed in relation to access, with existing access arrangements maintained.
- 5.17 The proposals will also provide economic benefits. It is anticipated that 9 jobs will be created by the development proposals. This is a clear economic benefit which should be a material consideration in the determination of this planning application.
- 5.18 Overall, the proposal would be designed to a high-quality standard; would not cause a detrimental impact on neighbouring amenity and traffic generation; and would not cause a detrimental impact with regards to issues that can be associated with A5 uses such as noise, disturbance, odours and litter. Where appropriate, conditions relating to opening hours and extraction equipment can be attached to an approval to ensure the amenities of neighbouring residents are protected. The proposal would therefore be in accordance with the adopted policies of the Local Plan and the NPPF.

6. CONCLUSION

- 6.1 The proposal is for a change of use of the ground floor unit of 130 Charing Cross Road from Use Class A1 (retail) to Use Class A5 (hot food takeaway). The site is located within a Secondary Frontage of a Central London Frontage and represents an appropriate and sustainable location for an A5 use such as this.
- 6.2 The principle of the proposed change of use is supported by the relevant policies of the adopted Local Plan, where it is outlined that Secondary Frontages within Central London Frontages are the preferred locations for food, drink and entertainment uses.
- 6.3 Of particular note is Policy TC4 and Appendix 4 of the adopted Local Plan, which set out a requirement for 66% of units within an individual Secondary Frontage within this Central London Frontage to be in A1 use. The development proposals will accord with this requirement, with the proposals resulting in 80% of the individual shop frontage remaining in certified A1 use. The proposal would therefore comply with the Council's aspired mix of uses for this area, with the proposal adding to the variety, vibrancy and customer choice of the area.
- 6.4 The proposal would provide clear benefits for the local area, including the creation of jobs and economic prosperity, and would represent sustainable economic growth for the area, which should be a material consideration in the determination of this application. The proposal would improve the vitality of both the daytime and evening economy, and promote a diverse and complementary mix of uses for the local shopping area.
- 6.5 With consideration to the central London location of the site, the proposed opening hours, and due to the careful positioning and high quality specification of the proposed extraction equipment, including proposed noise mitigation through the installation of an acoustic silencer and acoustic enclosure panels, it is considered that the proposal would not cause a detrimental impact on neighbouring amenity or traffic generation, and would therefore be in accordance with the relevant national and local planning policies.
- 6.6 With no alterations proposed to the unit frontage along Charing Cross Road, and with the proposed extraction duct located to the rear of the building well hidden from neighbouring street scenes, the proposal would also have no impact on the character and appearance of the Denmark Street Conservation Area, and the street scene along Charing Cross Road.

6.7 In light of the above, it is considered that the proposal would accord with the Development Plan and would achieve sustainable development in accordance with national policy, providing benefits that would outweigh any adverse impacts associated with the development. The proposal would therefore be in accordance with Paragraph 14 of the NPPF, with a presumption in favour of sustainable development. It is therefore respectfully requested that planning permission is granted for this development.