

## North York Moors National Park Authority

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Parish: Helmsley

App No. NYM/2020/0646/RRC

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**Proposal:** prior notification for change of use of shop (Use Class A1) to restaurant (Use Class A3) together with installation of extractor flue under Part 3, Class C

**Location:** 12 Bridge Street, Helmsley

**Applicant:** Mr Salvatore Pili, 31 Ashwood Close, Helmsley, York, YO62 5HW

**Agent:** Paul Elm, fao Mr Paul Elm, 15 Crabmill Lane, Easingwold, York, YO61 3DE

**Date for Decision:** 04 November 2020

**Extended to:**

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### Director of Planning's Recommendation

**Recommendation at Meeting** following the receipt of further details of the proposed extractor unit from the supplier confirming a revised design of the extractor flue to ensure no unacceptable noise or odour impacts on adjacent occupiers, and associated consultation response from Environmental Health Officer Ryedale District Council.



**North York Moors**  
National Park  
Authority

Application Number: NYM/2020/0646/RRC

Scale: 1:1250



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**Application No: NYM/2020/0646/RRC**

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**Consultations**

**Parish** - Object on the grounds that nearby residential properties will be adversely affected by increased noise, smells and general disturbance arising from this change of use.

**Environmental Health** -

**Highways** -

**Natural England** - No objection.

**Advertisement/Site Notice Expiry Date** - 13 October 2020

**Others** - Humberts (chartered Surveyors) on behalf of David Obank, 14 Bridge Street, Helmsley  
A P R Stacy-Marks (proprietor of E.Stacy-Marks Fine Art Dealers), 14 Bridge Street, Helmsley  
Audrey Stacy-Marks (proprietor of Spirit of the Garden), 14a Bridge Street, Helmsley  
Bruce Allen, Westminster House, Buckingham Square, Helmsley  
Myles Hartley, 1 Castle View, Helmsley  
Richard Balf & Co on behalf of the landlord for 14 & 14a Bridge Street, Helmsley  
Avril Taylor, The Flat, 10A Bridge Street, Helmsley  
Sally Butler, Veneto Shoes, Bridge Street, Helmsley  
David Obank, 14 Bridge Street, Helmsley  
Mr Ian Lockett, 9 Castlegate, Helmsley

Object for the following reasons:

- The extraction facility and flue will cause a noise and odour nuisance to the owners and occupiers of adjoining and neighbouring premises and especially to those residential properties situated at first floor level with balconies/roof terraces (some within 4metres). It will cause a diminution in the quality of life enjoyed by those residing at the premises and will also cause a fall in both the capital and rental values of their properties.
- There are residential properties at first floor either side of the proposed restaurant as well as directly backing onto the property, with first floor balconies and terraces and ground floor patios and courtyards, all private space which will be compromised by the noise and odours arising from the proposed restaurant use.
- There will be noise and odours from the kitchen as windows are typically left open, and from staff, diners and music as well as odours from waste bins, even if the extractor unit is completely silent and odourless as suggested.
- Will there be any insulation to the ceiling of the single storey kitchen or to the walls of the restaurant to minimise noise disturbance to neighbouring residents?
- The rear access is shared with adjacent property and is not sufficient as a fire escape.
- There is no space for further wheelie bins for rubbish.
- There are already issues with regard to cooking smells in the locality and rubbish levels at the end of Borogate, both issues have been reported to Ryedale District Council.
- The extractor fan and chimney will be difficult to fit in a small shared courtyard, will be unsightly and cause odour nuisance.
- To contemplate allowing a restaurant in such close proximity to residential property is both unfair and unacceptable. The cooking odours will pervade the immediate vicinity, the noise from diners coming and going, deliveries blocking an already congested and dangerous Bridge Street.

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**Application No: NYM/2020/0646/RRC**

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## Others continued

- Over the last 20+ years there has been a general deterioration of the town and the quality of its individual shops such that it is becoming like every other market town, a host for too many coffee shops and eating establishments to the detriment of niche businesses. The proposal is therefore not in the best interests of the town which does not need another food related business and the lease should be granted again to a deserving small individual business and the rents should be commensurate.
- In order to maintain a vibrant town centre there must be a diverse range of interesting, unique and niche retail to combat the all-encompassing rise of online shopping, combined with a balanced number of places offering food and drink.
- There are already far too many eating establishments in the town already and it is fast becoming a cheap tourist destination with few worthwhile shops.
- There are sufficient food and hospitality venues to support Helmsley's regional tourist role as required by the Helmsley Local Plan.
- Take away meals could be sold which would lead to litter from packaging on the pavement and gardens and dangerous parking on Bridge Street.
- The pavements of Bridge Street are narrow and customers leaving the premises at night risk stepping into the busy road.
- The highway too narrow and congested for unloading/loading.
- A restaurant will not draw people down to the retail premises of Bridge Street.
- Tenants of neighbouring retail premises are not willing to renew their tenancies should approval be given for a restaurant resulting in two further empty retail units.
- Existing restaurants and cafes in Helmsley are already struggling due to Covid-19 restrictions so another will simply dilute potential earnings and cause further struggle.
- There are presently 2 restaurant premises available in Helmsley – Gepettos and Origin, both on Bridge Street.
- The proposed change of use from retail to restaurant is not in accordance with the Helmsley Local Plan, adopted in 2015. There are already empty premises and existing successful premises available for restaurant use and replacing a retail venue with another restaurant does not provide a range of employment opportunities.
- The loss of a retail outlet will change the balance of employment contrary to Helmsley Local Plan which requires the provision of a range of employment opportunities.
- The property has not been publicised widely. Patience by the Estate might well lead to a more suitable tenant for this small shop.
- The latest version of the Use Classes Order allows for a temporary permitted change of use from the proposed restaurant use to provide hot takeaway food. Such a change would be deleterious to the immediate local environment in terms of traffic, noise, smells and the deposition of litter in the vicinity and would have a marked effect on the value of neighbouring properties.

James Hare, Managing Agent for Helmsley Estate, Duncombe Park, Helmsley - Supports the application and offers the following comments:

- 12 Bridge Street is a Helmsley Estate property, let for many years to Mr David Townend, who ran a country clothing shop until recently.
- The property has been listed on the website of local agents Rounthwaite and Woodhead since July 2018 attracting a number of interested people (details of which and the reasons for not proceeding have been submitted). There has been a full period of

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**Application No: NYM/2020/0646/RRC**

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## Others continued

marketing, and the majority of interest has been for a food use of one sort or another. A 'To Let' board was not erected on the premises for two reasons: Bridge Street is narrow and it was considered motorists should concentrate on driving rather than be distracted, and more importantly Mr Townsend was still trading from the shop until a new tenant was found.

- Bridge Street is very much part of the central core of Helmsley. Whilst there are residences nearby, there are also a number of food facilities including a fish and chip shop, an Italian restaurant and an Indian restaurant with Helmsley Brewery situated further south away from the Market Place.
- Bridge Street is a narrow, busy and somewhat noisy part of town; it is the main road into and through the town, and there is a lot of commercial and agricultural traffic at all times of day and night, as well as motorbikes and cars.
- The proposal for a restaurant use will generate employment, a core planning policy.
- There is a precedent for a restaurant use in Bridge Street at 23 Bridge Street which was for some time used as a restaurant (called Origin).
- With the exception of the required extraction facility this proposal does not require or propose any physical changes to the property. The extraction facility will be modern and fitted by a specialist company. It will not be visible from Bridge Street.
- The town currently lacks a restaurant serving food, other than Italian and Indian derived food. For a traditional restaurant experience the only alternative is the pubs or hotels.

### **Background**

This Notification relates to 12 Bridge Street, Helmsley, a vacant retail premises lying on the west side of Bridge Street in the centre of Helmsley. The property lies within the Helmsley Conservation Area and the designated commercial area of Helmsley. It is a modest two storey terraced property, built of stone under a pantile roof and lies in the middle of a short terrace of commercial properties. It has until recently been trading as a country clothing store.

Since the previous tenant vacated the premises the Helmsley Estate have been trying to secure another tenant and the property was listed on the website of local agents Rounthwaite and Woodhead in July 2018. It is understood that there has been a number of interested potential tenants with the majority of interest for a food use of one sort or another.

This Notification seeks the prior approval of the Authority for the change of use of an existing shop (Class A1) to a café/restaurant (Class A3) under the Town and Country Planning (General Permitted Development) Order Part 3 Class C along with the installation of an extractor unit and flue to the rear elevation. As the change of use is in effect permitted development the Authority cannot challenge the principle of the use itself and can only assess the proposed development on the following grounds:

- a. Noise impacts;
- b. Odour impacts;
- c. Impacts of storage and handling of waste;
- d. Impacts of hours of opening;
- e. Transport and highway impacts;
- f. Impact on the adequate provision of services under class A1 (shops) and the sustainability of the shopping area;
- g. Siting, design and external appearance of the facilities provided.

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**Application No: NYM/2020/0646/RRC**

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Background continued

In support of the application the agent has provided a statement addressing the relevant issues and these are discussed below.

### **Main Issues**

Under the Town and Country Planning (General Permitted Development) Order 2015 Part 3 Class C the Authority can only consider seven issues in the determination of this Notification, and it can only have regard to the Development Plan and National Planning Policy Framework so far as relevant to the subject matter of the prior approval.

The relevant policies of the adopted Local Plan are Policy ENV11 (Historic Settlements and Built heritage) and Policy BL8 (Shops, Offices and Food and Drink Services). Also relevant are Policies H5 (New Main Town Centre Uses) and H6 (Protection of Retail Uses) of the adopted Helmsley Local Plan.

Policy ENV11 seeks to conserve and enhance the special character and appearance of the built heritage of the North York Moors. It seeks to resist development that results in harm to the significance of designated heritage assets such as conservation areas. Policy BL8 states that new food and drink services will only be permitted where the proposal is in accordance with the policies in the Helmsley local Plan and requires proposals that result in the loss of retail development to demonstrate that the facility is no longer suitable for retail use. The policy advises that it is important to achieve a balance between provision of convenience services and those predominantly aimed at visitors so that the viability and vitality of the town centre is maintained.

Policy H5 of the Helmsley Local Plan seeks to focus retail and other town centre development within the defined commercial limits of Helmsley town centre to create a mix of appropriate uses and to enhance the viability and vitality of Helmsley Town Centre. The property within those defined commercial limits. Policy H6 advises that proposals which result in the loss of retail floorspace on Primary Retail Frontages along Bridge Street will only be permitted where it can be demonstrated that it is no longer suitable or viable for retail use.

The impacts which under Part 3 Class C of the Town and Country planning (General Permitted development) Order 2015 the Authority can assess the proposal is set out below.

### **Noise Impacts**

It is not anticipated that the proposed use will give rise to significant noise levels. The premises lie within the commercial limits of Helmsley, where there are a number of commercial properties, both retail and eating establishments, and consequently a degree of activity throughout the day and early evening. The nature of the proposed use and the hours of opening (4pm to 9pm Tuesday to Saturday) are such that it is unlikely to result in people congregating outside the premises as might be expected of a public house or hot food takeaway.

However there are flats at first floor level above the retail units on either side of the property as well as residential properties to the rear and as such it is considered that there will be some disturbance to those residents arising from the general noise from a commercial kitchen,

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**Application No: NYM/2020/0646/RRC**

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**Main Issues continued**

particularly if windows are left open, and from customers and music from within the restaurant particularly as the first floor is to be used for seating as well. Although the hours of opening are not late into the evening as with a public house, there are no other food or drink establishments within this terrace of properties and most commercial activity ceases by early evening when the retail units are closed and residents can enjoy relative quiet in the context of the location. However, it should be noted that the premises are located within the town centre and Helmsley does have an important “night-time economy”, and there will inevitably be a higher level of noise and activity in such a location than in wholly residential areas.

Environmental Health has been consulted on the application and their comments are awaited. Members will be updated at the Meeting.

**Odour Impacts**

The plans accompanying this Notification indicate an extractor unit and flue to the rear elevation which would extend above the eaves level of the property. The agent has advised that a leading firm in the design and installation of extractor equipment has advised that the proposed extractor unit will be silent and there will be no cooking smells from the flue exhaust. The agent has been asked for clarification of the type of cooking proposed along with further details of the proposed extractor unit from the supplier so that Environmental Health can comment on any potential odours arising and the impact on the amenity of the area. Members will be updated at the Meeting of any additional details.

In response to the concerns raised regarding a potential change of use to a hot food takeaway, under the Town and Country Planning (General Permitted Development) Order Part 4 Class DA, between 24 March 2020 and 23 March 2021, restaurants and cafes (Class A3) and drinking establishments (Class A4) can change to a use for the provision of takeaway food (Class A5). This is subject to the local authority being notified of the change of use, and the use reverting back to the original one at the end of the time period stated, or earlier if the provision of takeaway food ceases. However a condition could be imposed on any approval withdrawing such permitted development rights if Members felt this was appropriate.

**Impacts of Storage and Handling of Waste**

The agent confirms that there will be no storage bins kept at the property and that each night waste will be placed into Ryedale District Council red bin bags and placed at the collection point at the end of Borogate as with other businesses in the locality. Comments are awaited from Environmental Health as to whether this is an acceptable arrangement.

**Impacts of Hours of Opening**

The proposed hours of opening (4pm to 9pm) include early evening. Given that this is primarily a commercial area as defined in the Helmsley Local Plan with limited residential accommodation, defined as such in the Helmsley Local Plan it is not considered that the proposal would give rise to people congregating outside the premises or increased activity in the area late into the evening. However as identified above it is considered that there will be some noise and disturbance to immediate residents in the adjoining flats from the general



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**Application No: NYM/2020/0646/RRC**

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Main Issues continued

activity associated with a restaurant (noise from the kitchen, customers voices, music etc.) during the evening when previously as a retail unit such noise and disturbance was not experienced.

**Transport and Highway Impacts**

The Highway Authority has not commented at the time of writing this report however based on their comments on a similar Prior Notification in the town no objection to the proposal is expected. The highway to the front is controlled by no waiting restrictions and there is public parking available very close by in the Market Place and in the main Cleveland Way car park.

Loading/unloading arrangements will be on-street as for most properties along Bridge Street that do not have off-street access.

**Impact on the Adequate Provision of Services Under Class A1 (shops) and the Sustainability of the Shopping Area**

Whilst the loss of a general retail unit is regrettable, it is not considered that this would undermine the vitality and viability of Helmsley town centre as a shopping area for local residents and visitors given the presence of a department store, two supermarkets and a number of independent retailers including greengrocers, bakers, hardware store and clothing stores. Bridge Street is identified as one of the Primary Retail Frontages in the Helmsley Local Plan where Policy H6 seeks to resist the loss of retail floorspace unless it can be demonstrated that the premises is no longer suitable or viable for retail use.

In support of the application, Helmsley Estate as landlord for the property has advised that the property has been advertised for rent since July 2018 on the website of local agents Rounthwaite and Woodhead. A number of people (12 in total) showed interest in the property, the majority (6) for a food and drink use. Of those proposing retail use, all decided not to pursue a tenancy for various reasons such as competition in the town, unsuitable premises for the intended use etc. Those proposing a hot food takeaway use were discouraged as unsuitable by the Estate.

As previously stated the proposal is considered permitted development and the Authority cannot assess the principle of the development only whether it is undesirable for the building to change to a Class A3 use because of the impact on the adequate provision of Class A1 uses and the sustainability of the shopping area. Given the number of retail units in the town centre it is not considered that the Authority could reasonably refuse to grant prior approval for restaurant/café use.

**Siting, Design and External Appearance of the Facilities Provided**

A substantial extractor flue is proposed to the rear elevation of the property. This will not be widely visible in the Conservation Area from the public realm with only glimpsed views afforded from the forecourt to the former fire station now an independent gift shop (The Ginger Bear) to

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**Application No: NYM/2020/0646/RRC**

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**Main Issues continued**

the north and from the west from Castlegate between buildings. However the protection afforded by the Conservation Area designation and legislation applies in equal force to all elevations. It is also highly probable that it will be very visible from several residential properties in the area and would interrupt their appreciation of the historic roofscapes of the conservation area.

Such a large steel flue, even painted matt black, is not in keeping with the Helmsley Conservation Area and the historic roofscape character that it exhibits and as such the agent has been asked to provide revised details or route the flue through the existing chimney stack. Members will be update at the meeting of any amended plans.

**Conclusion**

In view of the above, it is considered that many of the impacts against which the Authority can assess the proposed change of use have been addressed and satisfied. However in respect of noise and odour impacts and the siting, design and appearance of the proposed extractor flue further details and amended plans have been requested from the agent. Comments are also awaited from Environmental Health. As such a recommendation is not possible at the time of writing the report and consequently will be made verbally at the Meeting.