exp 3/6

Development Control – Delegated Officer Report

Application Number: ADC/0119/10 Recommendation - APPROVE

Site: **Shoreham Café, 376 Brighton Road**
Shoreham-by-Sea BN43 6RE

Proposal: **Variation of condition 2 of SU/142/02 to enable opening from 6.30am instead of 8am (retrospective)**

The Application

The use of this former shop as a hot food takeaway was permitted in 2002 (SU/142/02) and condition 2 limits opening hours to 8am-11pm.

In 2005, temporary permissions were granted for one year to extend the closing time to 11.30pm (SU/147/05) and for an earlier opening time of 6.30am (SU/185/05). These permissions expired in 2006 but it became evident from a recent complaint that they are opening at 6.30am. The present application retrospectively seeks permission.

Although the permission granted in 2002 was for change of use from a shop to a hot food takeaway, owing to the subsequent provisions of Class AA of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995 (as amended in April 2005), the change of use from a takeaway (Class A5) to a café (Class A3) was 'permitted development' and did not need an application. Carrying on mixed use as both a cafe and takeaway is not in breach of planning control.

The permitted hours at nearby Daniella's Wacky Diner at No.372 are 6am-11pm (SU/85/85).

Consultations and Representations

Adur District Council: No objection from the EHO.

Third Parties: Bramber Construction Ltd at No.370 to the rear state that they feel permission should be granted as it provides an excellent service for the early starting workforce and maintains business in a depressed section of shops.

Relevant Planning Policies and Guidance

Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1
PPS1 'Delivering Sustainable Development' (ODPM 2005)
PPS4 'Planning for Sustainable Economic Growth' and Practice Guidance 'Planning for Town Centres' (DCLG 2009)
PPG24 'Planning and Noise' (DOE 1994)

Circular 11/95: 'The Use of Conditions in Planning Permissions' (DoE 1995)

Planning Assessment

Policies

The site is within a small row of shops and commercial premises on the north side of Brighton Road on the edge of the town centre. It lies outside the shopping area (policy AS1) identified in the Local Plan and is not identified for any particular use or development. It is in the interests of the regeneration of the town centre that existing commercial uses should remain viable.

PPG24 refers to food & drink uses, particularly fast food restaurants, public houses and night clubs, but only in respect of difficulties caused by their activities peaking in the evening and late at night, not in the morning. It advises LPAs to consider the noise that may be made by customers in the vicinity and states that the disturbance from traffic and car parking should not be underestimated.

The character of the immediate vicinity of the application site is predominantly commercial. Opposite are car showroom and car repair premises and to the rear is a builders yard. However, there are some residential flats in this row of buildings, namely above the Duke of Wellington public house (No.368) and above the shops and offices at No's 372, 374, 378, 380, 384 and 386 although not all may be occupied. No.388 is being converted to flats.

Notwithstanding the existence of these residential flats, it is not considered that opening at 6.30am is unacceptably early given that the premises lie on a busy road with significant traffic noise. When permission was previously temporarily granted in 2005, no complaints were received from residents about noise disturbance. There is consequently no need for a further trial period. As stated earlier, No.372 has permission to open at 6am.

Recommendation

APPROVE for reason that:-

Owing to the location on a busy road in a predominantly commercial area, opening at 6.30am is unlikely to result in unacceptable noise and disturbance to nearby flats or other detriment to residential amenity. It does not therefore conflict with policy AG1 of the Adur District Local Plan.

Subject to:-

1. C14L .....hours of 6.30am and 11pm and there..... 11.30pm daily.

Case Officer....[redacted] Date....29/4/10.....