Development Control – Delegated Officer Report

Application Number: AWDM/0328/13 **Recommendation – Issue Certificate**

Site: **9 Middle Road Shoreham-By-Sea West Sussex BN43 6GA**

Proposal: **Application for a Lawful Development Certificate for existing use as Chinese takeaway and fish and chip shop.**

Date of site visit: 15.05.2013

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application relates to the ground floor of a 3-storey, mid-terrace unit within a parade of shops on the north side of Middle Road, and a detached storage building within the rear garden. A Certificate of Lawfulness is sought for the existing use as a Chinese take-away and fish and chip shop. The maisonette on the upper floors is known as 9A Middle Road and is accessed by external steps from the rear yard.

The application is supported by:-

- Signed letters from neighbours at 5 and 7 Middle Road confirming that the property 9 Middle road has been trading as a fast food takeaway for over 10 years.
- Extract from a Fire Safety Completion Certificate and Completion Certificate dated 01.09.2004 issued by Adur District Council in respect of 'Tasty' (Shoreham Fisheries) at 9 Middle Road, Shoreham.
- Extract from lease agreement dated 16.12.1998 with reference to Chinese and Fish and Chip takeaway at 9/9A Middle Road, Shoreham.
- Copy of a sworn declaration from the previous tenant of 9/9A Middle Road dated 16.12.2002 confirming that he carried out a Chinese food and fish and chip takeway business from the premises from 16.12.1998 to 16.12.2002 and to his personal knowledge the same business had been carried out at the premises for 15 years prior to 16.12.1998.
- Copy of the lease dated 16.12.2002. Paragraph 2.2 states: *"The current use of the Premises by the Tenant is as a Chinese food and fish and chip takeaway together with the sale of non-alcoholic drinks to customers within the meaning of Class A3 Town and Country Planning (Use Classes) Order 1987 and as to the upper part as a private residence…."*.

Consultations:

Adur and Worthing Councils: The EHO confirms that there are records of food inspections at the property from 2002 to 2013.

Representations: Third parties have been notified of the application to but no representations have been received either corroborating or disputing the alleged use.

Relevant Planning History

None

Relevant Planning Policies

The consideration is related solely to matters of fact and degree in relation to S.191 of the T&CP Act 1990 (as amended).

Planning Assessment

The 10 year rule applies. The relevant test is the balance of probability.

The evidence submitted by the applicant (including a sworn statement) is supported by the Council's record of food inspections at this property since 2002.

A site visit confirms the use of the ground floor as consisting of a customer waiting area, counter with fryer/warmer at the front and a back room comprising the kitchen and separate WC. A block-built garage/outbuilding in the rear yard contains several chest freezers and shelving racks and is used as a food store.

[A timber shed attached to the south side of the garage/outbuilding is also used as a store but is not included as part of the current application. It is likely that the timber shed has existed for 4 or more years but no evidence of this has been provided.]

The evidence is considered sufficiently precise and unambiguous to justify issuing a Certificate.

Recommendation

ISSUE CERTIFICATE

Use of ground-floor as Chinese takeaway and fish and chip shop (Class A5) with ancillary use of detached storage building in rear yard.

Is recommendation contrary to letter(s) of representation? N

Case Officer:	Jo Morin	Date: 15 May 2013
Authorised by:	Gary Peck	Date: 15 May 2013