Application Number: ADC/0520/07 Recommendation - REFUSE

Site: **Great Italian Pizza Co, 95B South Street Lancing BN15 8AP**

Proposal: **Variation of condition 3 of permission L/72/91 to allow extended opening hours (Mon-Thurs 12noon-12midnight for opening and till 1am for deliveries; Fri and Sat 12noon-12midnight for opening and till 2am for deliveries; and Sundays 12noon-11pm for both opening and deliveries)**

The Application

The premises are located on the north side of the junction of Roberts Road with South Street.

Permission for use of this former shop as a pizza delivery/takeaway was granted in 1991 subject to a condition restricting opening times to 9am-10pm (being the hours proposed by the applicant at that time). An application to the hours until 11pm was subsequently refused in 1996 (L/157/96).

In 1997 temporary permission was granted to extend the opening hours to 10:30pm with home deliveries until 11pm (L/169/97). These hours were then renewed permanently in November 1998 (L/136/98), after an application to extend the hours to 11:30pm (with deliveries until midnight) had been refused in March 1998 (L/21/98).

In 1999 temporary permission was granted to open until 11pm, with all on-site activity ceasing by 11:30pm (L/129/99). Temporary permission was renewed in 2000 but with an additional relaxation to enable opening until 12 midnight on Fridays and Saturdays (plus an additional half hour for all activity to cease on the premises) (L/138/00). When application for renewal was made in 2003 (L/20/03), the hours were restricted back to 11pm every day with all on-site activity ceasing by 11:30pm, following the receipt of a complaint from a Roberts Road resident.

The present application now seeks to extend the operating hours as follows:-

Day(s)	Shop Hours	Deliveries
Monday – Thursday	12 noon – 12 midnight	12 noon - 1am
Friday – Saturday	12 noon – 12 midnight	12 noon – 2am
Sunday	12 noon – 11pm	

This application follows the decision in August 2007 by the Licensing Committee of Council to grant approval to extend the hours of operation as

above. That approval was granted subject to a number of conditions imposed by the Licensing Committee as a means of managing the concerns of a local objector which include:-

- All external lighting being switched off when the premises closes to the public;
- All delivery vehicles being parked at the rear of the premises;
- The licensee reporting incidents of a crime nature that may occur on the premises to the Police, &
- A CCTV monitoring system be maintained, with recordings kept securely for a minimum of 31 days and shall be maid available to the police on request.

Consultations and Representations

Director of Services: The Environmental Health officer objects on grounds of probability of disturbance to nearby residents as a result of:-

- Congregation of youths outside the premises;
- The arrival of customers vehicles, including car door slamming, radios and loud voices/shouting;
- Late night deliveries, also likely to involve the slamming of car doors and the idling of engines at hours when persons might reasonably expect restful sleep; &
- Late night use of fan extraction system.

Lancing Parish Council: To be reported.

Third Parties: 5 letters of objection have been received from nearby residents (including the occupant of the flat directly above the entrance to the shop) on grounds that the increased hours will adversely affect them by noise, smell from extraction fans, light spill from internal and external lights, unsociable behaviour by patrons and ongoing parking problems. One of the letters also mentions that the shop is already advertising the extended hours granted by Council's Licensing Committee despite not having planning approval as yet.
[NB. The residents of No's 118 & 120 South Street have requested to speak at the Committee meeting]

Relevant Planning Policies and Guidance

Adopted West Sussex Structure Plan 2001-16 (WSCC 2004): NE9, DEV1
Adopted Adur District Local Plan 1993-2006 (ADC 1996): AG1, AP7, AB14, AS1
PPS1 ' Delivering Sustainable Development' (ODPM 2005)
PPS6 ' Planning for Town Centres' (ODPM 2005)
PPG24 'Planning and Noise' (DoE 1994)

Planning Assessment

Policies

The premises have permission for Class A3 (Food & Drink) use, being in an area on the east side of South Street within Lancing town centre specifically identified for A1 and A3 uses under policy AS1 of the Local Plan. Policy AS1 states that permission will be granted for A1 and A3 uses in such areas subject to criteria including that:-

- there be no loss of amenity to nearby residents; and
- On-site car parking arrangements and access to the public highway are acceptable under Policy AT12 of the Local Plan.

PPS 6 states that Local Planning Authorities should prepare planning policies to help manage the evening and night time economy in appropriate centres, encouraging a range of complimentary uses for a wide range of age and social groups. They should consider the scale and impact on the character and function of the centre, anti-social behaviour, crime and the amenities of the residents. They should ensure an integrated approach taking account of and complimenting their Statement of Licensing Policy and the promotion of licensing objectives and consider developing a local strategy.

The Government's objectives for the Licensing Act 2003 are, however, flexibility to avoid concentrations of customers leaving premises at fixed and artificially early closing times, and therefore the Council's Licensing Policy Statement recognises the aim of reducing concentrations and achieving slower dispersal of people through a variety of opening times.

In part, policy AP7 of the Local Plan states that in the interests of minimising pollution, the Council shall impose conditions on planning permissions that seek to minimise disturbance from light or noise, and refuse applications that are likely to have an unacceptable environmental effect.

PPG 24 points out that A3 uses, particularly hot food takeaways, are often problematic from an environmental point of view. It states:

> *"Commercial developments such as fast food restaurants, discos, night clubs and public houses pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the attendant problems of noise that may be made by customers in the vicinity. The disturbance that can be caused by traffic and associated car parking should not be underestimated."*

Residential amenity – noise and disturbance

The character of the area in the vicinity of the site is largely residential, with a small strip of commercial uses along South Street that are clearly secondary

to the main shopping area in North Road. There are houses and flats on the opposite side of South Street to the site, flats over the shops and houses in Roberts Road to the rear (where the vehicular access is located).

The premises currently in question have a history (see above) of temporary permissions allowing later trading hours including until 12 midnight but, at the time of the last application for renewal, in 2003, the trading hours were curtailed to their present limit of 11pm plus half an hour for all activity to cease. This was considered necessary because of complaint from a nearby household in Roberts Road whose young children were regularly prevented from sleeping by the noise. Experience has shown that opening of takeaways after 11pm is usually intended to attract trade from people leaving public houses. Such persons often congregate in the vicinity of takeaways and cause noise disturbance and problems of rowdiness and vandalism in the area concerned, in some instances affecting properties beyond those just in the immediate vicinity.

Following the approval of the Committee of the report on "Late Night Opening of Restaurants and Takeaways" in 1985, it became the normal practice of this Council to require closing of takeaways in predominantly commercial streets at 11pm. If there are significant numbers of residential properties in the vicinity, the closing time normally required is 10:30pm (or earlier if the area is largely residential rather than commercial in character). The report did allow for the possibility of later opening of takeaways in isolated cases on a temporary trial basis depending on the proximity of residential properties but that has already been tested in this case from 2000-2003 and found to be unacceptable.

In the case of the present application, it is considered that permitting opening until as late as 12 midnight Mon-Sat, with home deliveries until 1am Mon-Thurs and till 2am Fri-Sat, would be likely to result in unacceptable risk of noise disturbance for nearby residents. This would be at times when people have a reasonable expectation to be able to sleep. At such late hours, background noise levels from traffic are low with the result that noise from customers and their vehicles as well as from the vehicles used for the proposed home deliveries would be all the more noticeable.

To grant permission may also cause difficulty in resisting such late opening of other similar establishments. There are many other restaurants and take-aways along the length of South Street. 3 of these were established so long ago as not to be subject to planning conditions restricting hours but other planning permissions are subject to conditions, including requirements to close at 11.30pm (No.155), 10.30pm (No.129) and 10pm (No's 95 & 131).

The Government's relaxation of licensing hours to encourage flexibility of opening needs to be borne in mind and, especially, so does the Council's Licensing Committee's decision to grant a licence in respect of these particular premises for the later hours proposed.

Nevertheless, it is considered that because of the characteristics of this location, particularly given that it is on the corner of a residential street (Roberts Road) with rear access thereto, that the risk of detriment to residential amenity is too great for the planning condition to be relaxed as sought.

Recommendation

REFUSE for the reason:-

1. The proposal would result in unacceptable risk of noise and other disturbance at unsocially late hours, to the detriment of the amenities of nearby residential properties, and thereby not meet the requirements of policies AS1 ~~and AP7~~ of the Adur District Local Plan and DEV1 of the West Sussex Structure Plan.

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