Expiry Date - 27/01/2010

Development Control – Delegated Officer Report

Application Number: ADC/0426/09 **Recommendation – Permit Application**

Site: **2 Tarmount Lane Shoreham-by-Sea West Sussex**

Proposal: **Change of use to mixed uses within Classes A1 (shop), A3 (cafe), [redacted], B1 (offices) and sui generis (beauty and reflexology/massage therapy) (No's 2 and 8 Tarmount Lane)**

The Application

The application relates to part of a former Council owned site located within the heart of Shoreham Town Centre Conservation Area.

The applicant is the owner of the larger site which comprises No's 2 – 8 Tarmount Lane, located on the south side of the road with a 42m frontage and an average depth of 30m. It has an area of 0.12 hectares as a whole. The site is divided into three distinct sections, No's 2 – 4 to the west, No.6 the former town police station in the centre, and to the east No.8 the former home of the sergeant of the police station. No's 2-4 (known as Tarmount Studios) are comprised of a number of different smaller rooms, and buildings. No.2A with the site frontage and a street pedestrian entry, Units 2B, 2C, & 2D located in a warehouse style building to the rear (south) behind a central courtyard, accessed from an archway between No's 2 and 4, No.4 adjacent to the main pedestrian entrance is a self contained shop, with Units 4B & 4C behind. Units 2F, 2G, 2H are three first floor offices above Unit 2A, and unit 4E is located above units 4B & 4C. All the first floor units are accessed from the main pedestrian path running centrally at this part of the site, a door in the eastern elevation of No.2 allows access to the stairs.

The site was formerly used as Council Offices (No's 6 & 8) and as a Community facility with ancillary office spaces in No's.2 & 4. The site stood vacant for a number of months after the Council vacated, until the current applicant bought the entire site from the Council in 2009. Prior to the sale of the site the Council published a planning brief in May 2008 setting out guidance for the most appropriate way for the site to be re-developed, should the existing buildings be demolished. It was determined that the predominant use of the site should be residential given the need for new housing in the district and the site's sustainable town centre location. However No's 2 & 4 were identified as potential for A1 retail uses, with A2 or B1 uses being incorporated into any scheme.

Prior to this planning application, planning permission has been granted for the change of use of the centrally located former police station into a children's day nursery. (ADC/0141/09)

The current application relates to No's 2 and No8, and includes buildings and offices to the rear and above No's 2 and No.4 (but not No.4 itself), and the stand alone building at No.8. Change of use permission is sought to change the number of different buildings and individual offices into a multi-use site, with multi occupancy, in the interim period until the full re-development of the site can be realistically achieved.

Permission is sought to change the main No.2 site from Council run drop in centre 'The Halcyon Club' into a Café / antiques shop. The rear main warehouse is to be converted from the former use of artists studios into A1 retail. It currently is divided into three separate units 2B, C & D, the main 132sqm Unit 2C is proposed for a 'bric-a-brac market', with the smaller 2B (26sqm) used for a cycle hire shop, and 2D (12sqm) for an illustrators gallery/studio space. Units 4D and 4E will be cycle storage and wc respectively. No.4 is a currently a retail outlet, 'Anerley Crystals' and no change is proposed. To the rear Unit 4B is proposed to be a beauty and reflexology/massage therapy business (Sui Generis), with a photography gallery (A1) further to the rear in unit 4C. Units 2G, 2F, 2H, and 4E are all proposed for B1 business use. The stand alone No.8 is proposed to be retail A1 at ground floor and Business B1 at first floor level. The 3 parking spaces allocated at the front of No.8 would be for staff and members of the public, with the rear yard and lock up garages proposed for ancillary storage associated with No.8.

Directly to the east of No.8 is Swanborough Court a three-storey block of flats directly adjacent to the east side of No.8. 26m to the south of No.8 are the residential houses located in New Road (No's 7 – 21) with north facing gardens. To the south of Units 2B, C, & D is a car parking area subject to a planning permission for comprehensive redevelopment into a terrace of 4 residential houses (ADC/0485/08). To the west of No.2 are the rear of shops in East Street, some of which have residential accommodation at first floor level, in particular No. 34 which has a rear projection with three flats within, which are in close proximity to the west side of No.2.

An original application made in August 2009 (ADC/0278/09) was withdrawn to confirm additional details of the proposed changes of use, and to supply extraction details and signage for the proposed uses.

Consultations and Representations

Consultations/Comments

West Sussex County Council: West Sussex County Council was consulted previously on Highway Matters for this location under withdrawn planning application ADC/278/09 to which no objections were raised. This proposal was for the Change of Use from a former voluntary centre to retail shop and

cafe/takeaway on the groundfloor of 2 Tarmount Lane. In principle the advice for the previous application would still stand for this application.

On-street parking in this area is under considerable pressure, nevertheless given the site's close proximity to the nearby public car park some excess parking for customers could take place here. Number 8 includes three parking spaces that could be used by staff which would lead to the number of vehicle movements from being significantly less.

The close location to the town centre makes it likely that customers and excess staff would link journeys with other purposes, potentially resulting in fewer vehicle movements and the use of more sustainable modes of transport. With this in mind it is recommended that secure and covered cycle parking for staff and customers is included in all properties, and secured by planning condition.

The items placed within the public highway serving No.2A are not to be permanently fixed and should be subject to a licence with the highway authority.

Based on the submitted plans the proposals at numbers 2 & 8 would not appear to have the potential to significantly intensify vehicular movements over what is existing at the sites. Consequently, no significant concerns would be raised.

A s.106 contribution of £1,733 was originally requested, however in lieu of former development B1 use on the majority of the site and a reconfiguration of the proposals the Highways Authority, West Sussex County Council have decided that the proposed additional B1 use of 94sqm falls below the threshold for capture for B2 sites, consequently a contribution for the site will no longer be required.

Adur District Council: The Environmental Health Officer states that in general they have no objection to the overall development, however there are concerns regarding the establishment of A3 usage within the site. The A3 use along with the longer opening hours, does indicate a more intensive use as a restaurant/café, and there does not appear to be justification for the assertion that no extraction equipment is required for the A3 unit. There has also to be consideration of the possibility of different A3 usages than currently proposed. A planning condition requiring an extract system to be installed and the details of the design and odour, noise and vibration control should be submitted and approved by the Council prior to any works commencing.

Adur District Conservation Advisory Group: No.8 Should not be used for retail.

Third Parties: There have been no third party objections to the proposals.

Relevant Planning Policies and Guidance

The South East Plan (GOSE 2009): SP3, SCT4
Adopted Adur District Local Plan 1993-2006 (ADC 1996): AG1, AB3, AB4, AB14.
'A Strategy for Shoreham Renaissance' (for ADC 2006)
Planning Brief for 2-8 Tarmount Lane, Shoreham-by-Sea (ADC May 2008)
PPS1 Delivering Sustainable Development' (ODPM 2005)
PPS4 ' Planning for Sustainable Economic Growth' (DCLG 2009)
PPS5 ' Planning in the Historic Environment' (DCLG 2010)
PPG13 ' Transport' (DTLR 2001)
PPG24 'Planning and Noise' (DoE 1994)
Circular 11/95 'The Use of Conditions in Planning Permissions' (DoE 1995)

Planning Assessment

Policies
The site is not allocated for any specific land use within the Local Plan proposals map, however it sits on the fringe of the main Town Centre area allocated for shopping and business, and within the Conservation Area where there is a statutory duty to pay special regard for preserving or enhance the character or appearance of the Conservation Area and the relevant advice is contained in PPS5.

The South East Plan sets out the long term spatial strategy for the region with the aim of achieving more sustainable development, protecting the environment and combating climate change. Policy SP3 seeks to achieve at least 60% of all new development on previously developed land and through conversions of existing buildings. Policy SCT4 states that Local Authorities should give priorities to deliver employment in strategically accessible locations, particularly by rail, to ensure an appropriate mix of readily available sites. Whilst policy SCT1 gives priority to pro-actively pursuing sustainable economic growth and regeneration of the Sussex Coast.

The relevant policies of the Local Plan are:- AG1 which states that development will generally be permitted in the built-up area subject to other policies and to it not detracting from the existing local urban environment; AB3 which states that " Planning permission will not be granted for development which will generate a level of traffic flow, or other activity, likely to affect adversely the character of the Conservation Area"; AB4 which requires new development (including alterations and extensions) to be of a high standard of design and construction materials such as to preserve or enhance the character and appearance of the Conservation Area; AB14 which requires that LPA's take every opportunity to maintain and enhance the economic vitality of town centres.

The regeneration document 'A Strategy for Shoreham Renaissance' (March 2006) identifies the area between East Street, New Road and Tarmount Lane as a 'Key Opportunity Area'. Whilst development to a comprehensive overall plan may seem desirable, it is not considered an essential pre-requisite particularly as there is no adopted planning policy or supplementary planning document in existence that makes it a requirement. Consequently, refusal of individual applications on the basis of piecemeal development potentially prejudicing a comprehensive overall plan would be very difficult to substantiate.

The Planning Brief relating to 2-8 Tarmount Lane, adopted in May 2008, recognises that comprehensive redevelopment is not necessarily achievable or desirable. The Brief envisages that the predominant use of the site would be residential but that it would also be appropriate for A1 (shops), A2 (financial and professional services) and B1 (business) uses.

Since the Brief was adopted, the Council has sold the site to the applicant, who, owing to the current economic situation, is not expecting to redevelop in the near future. It is therefore likely that the existing buildings will be individually leased on an ad hoc basis as and when occupiers are found.

The Government's overarching objective in PPS4 is to promote sustainable economic growth by, amongst other things, delivering more sustainable patterns of development, reducing the need to travel especially by car, and responding to climate change. It states that planning applications that secure sustainable economic growth should be treated favourably, and that all proposals should be assessed against whether proposals have been planned over the lifetime of the development; the accessibility of the site; whether proposals secure a high quality and inclusive design; the impact on economic and physical regeneration in the area; and the impact on local employment.

Government Guidance PPG24 entitled 'Planning and Noise' states amongst other things, that where it is not possible to achieve separation of land uses, local planning authorities should consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions. Much of the development which is necessary for the creation of jobs and the construction and improvement of essential infrastructure will generate noise. The planning system should not place unjustifiable obstacles in the way of such development. Nevertheless, local planning authorities must ensure that development does not cause an unacceptable degree of disturbance. They should also bear in mind that a subsequent intensification or change of use may result in greater intrusion and they may wish to consider the use of appropriate conditions.

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. (Annex 3 para 20). Examples of conditions are given which a) set a noise limit over a given period at a specified point - such as outside the nearest noise-sensitive building or at the site boundary, and b) specify the type of activity that may take place, any restrictions necessary on the hours of operation, and details of the construction and layout of the development (annex 4).

Principle of change of use

Comprehensive redevelopment of the site is not currently a viable proposal and the applicant proposes 100% occupancy across the whole of the larger site (No's 2 – 8 inclusive). They currently own No's 2 – 8, where No.4 is a stand alone shop, and No.6 a children's day nursery, both of which are currently occupied.

The proposals would result in economic regeneration in the interim period between now and if there are proposals for a more comprehensive redevelopment. No.6 the existing day nursery, effectively subdivides the whole of the site, with the sprawling mass of buildings and independent offices at No's 2 & 4 to the west occupying the deepest part of the site, whilst the former sergeants house (No.8) occupying the easternmost section. No.8 would be easily converted into a residential dwelling or could be demolished for redevelopment, however a tree which is sited at the front of the building has recently been formally preserved with a Tree Preservation Order which somewhat restricts the extension or erection of buildings any further to the north.

Whilst the proposals would not fully accord with the planning brief in that no residential accommodation is proposed, it is considered that the reuse of the existing buildings does benefit the economy of the town by providing employment opportunities through the occupation by different businesses. The additional benefit is that it prevents the buildings from sitting vacant and boarded up for longer than would usually be considered warranted.

There may be concern about any permission discouraging potential future development of the wider site but it is not considered that there is a sound case for making any planning permission only temporary.

Visual amenity

The main concern with the proposed ad-hoc nature of the use of the individual sites and short term leases associated with the buildings and businesses, particularly in the case of premises looking to attract local custom on foot is the overall effect on the visual character of the Conservation Area through excessive signage, street clutter and articles for sale. The applicant has submitted details with the amended plans which show a proposed signage strategy that would tie in with the Tarmount Studios signage which has chromed style deco lettering in an archway above the existing pedestrian entrance between No's 2 & 4. This would enable the buildings and separate units from having a cohesive identification to unify the Tarmount Studios site whilst the individual units might themselves change occupiers and their own

individual signs. The street facing signs which relate to the actual occupiers are restricted by the terms of the Town and Country Planning (control of Advertisements) (England) Regulations 2007.

Articles for sale are evident at the front of No.8 and either side of the pedestrian entrance to the Units 2B, 2C and 2D, whilst it is evident that the ad-hoc nature of the different units can lead to the display of articles for sale within the enclosed courtyard at the rear of the main buildings of No.2, it is considered that signage and goods for sale at the front of No's 2, 4 and 8 should be restricted by condition so as to protect the appearance of the buildings and the conservation area as a whole.

The proposals also are for the insertion of a pair of glazed uPVC framed doors serving the west elevation of Unit 4C. The uPVC doors do not specifically match the existing fenestration at the rear of No.2 and 4, however it is considered that they would not have a detrimental effect on the character or appearance of the conservation area, and are therefore acceptable.

It is not considered that the level of activity would adversely affect the character and appearance of the Conservation Area in conflict with policy AB3.

Residential amenity

One of the main concerns regarding the proposals has been the change of use of No.2 to an A3 Restaurant and Café. The occupier 'Nice Slice' offers standard café fare of hot and cold food to eat on the premises, and to the rear at tables within the enclosed courtyard. Two tables and chairs are proposed at the front of No.2 either side of a redesigned entrance porch recently approved (ADC/ 0423/09).

The current occupant appears to have a fairly discrete use given the type of food that is being produced within a fairly domestic level kitchen arrangement. The Environmental Health Officer has not reported any complaints to the use which appears to have been in operation at least since the first application was originally made in August 2009.The EHO has raised concerns regarding the future potential use of the site if a full A3 use class were to be granted, and that another, more intensive, form of restaurant might, given the opening hours requested, be attracted to the town site location. The applicant proposes a split between the floor areas of No.2 of 40% for A3 use and 60% A1, however it does appear that the sales of antiques and furniture appears to be ancillary to the use as a café. No details of an actual extraction and ventilation system have been supplied however the applicant has finally stated that any such flue would be located within the rearmost of the two existing chimneys. Environmental Health have made no objection to the location of such ducting equipment however further details are requested as part of a planning condition.

The proposed opening hours for the A3 use would be 7.30am until 10.30pm. Provided that an adequate extraction system can be provided it is considered that the current use would not result in a detrimental effect being felt on the

immediate surrounding residential dwellings. However there is a valid concern that due to the ad-hoc arrangement of individual premises that there may be a high turnover of occupancy leading to a café/restaurant type that may require a more comprehensive type of extraction and ventilation system due to the type of food produced. It is considered that a temporary condition to control the use would not provide a clear indication as to the effect of the use on the immediate vicinity. Whilst currently the café use has resulted in no objections to the application, a future occupier might provide a different type of food legitimately under the A3 use class.

The existing use, as café occupies only 40% of the floor area whilst the remainder of the floor area of No.4 is given over to antique sales. The environmental health officer has requested that details for extraction and ducting be provided prior to development commencing, however given the site is currently occupied it is considered that within three months of any permission being granted the details of such noise and odur management should be approved and implemented.

With the potential for a change to the occupant being a concern it is considered that a specific condition requiring a fresh set of extraction details dependent on the occupier or food type to be agreed and supplied would prevent any adverse effects on the amenity of the residential amenity of the surrounding flats. Given the rear courtyard is adjacent to the rear gardens of and faces towards some residential accommodation in East Street it is considered that all outdoor activity to the rear courtyard of No.2 should cease by 7pm to prevent there being a disturbance through excessive noise.

Access and Parking

This town centre site is in a highly sustainable location close to the train station and bus routes. In this location, staff and customers would have the choice of travelling to the site by alternative modes of transport other than the car but, for example by rail with the station being located just 170m to the north, and by bicycle given the applicant proposes a covered and secure bicycle storage area. Those who travel by private transport will not have a detrimental effect on highway safety due to the proximity of the nearby Tarmount Lane public car park which has 77 spaces.

West Sussex County Council the Highways Authority for the area have made no objections to the proposed change of use and its effect on highway safety. The request for bicycle storage in all locations can be as a condition of the permission. Following amendment of the scheme and the proposed layout, the amount of new B1 use dropped to 94sqm which would be below the threshold for requiring a s.106 TAD contribution, and therefore no legal agreement is required.

Recommendation

APPROVE for reason that:-

The proposed development is in a highly sustainable location within the built-up area and would assist in providing additional employment provision and economic and environmental regeneration without detracting from the local environment. It can take place without resulting in unacceptable detriment to the amenities of neighbouring properties and without detraction from highway safety. It would consequently not conflict with the relevant policies of the Adur District Local Plan (AG1, AB3, AB4, AB14) and A Strategy for Shoreham Renaissance.

Subject to:-

1. C1Ci
2. C14O - amended

   Within three months of the date of this decision a satisfactory means of ventilation for the extraction, filtration and disposal of cooking odours (including necessary sound attenuation measures) shall be installed in accordance with details to be submitted to and approved in writing by the Local Planning Authority and the system as approved shall thereafter be retained in effective working order, commensurate with the type of food being prepared as set out in the 2005 DEFRA 'Guidance on the Control of Odour from Commercial Kitchen Exhaust Systems', and operated at all times when cooking is taking place.

   Reason: *In the...etc*

3. The A3 premises within No.2 Tarmount Lane shall not be open for trade or business other than between the hours of 7.30 am and 22.00 with all activity ceasing at the premises by 22:30 daily. Use of Units 2B, 2C, 2D, 4B & 4C, and the rear courtyard for the sale of goods and for outdoor eating shall cease by 7pm.
   Reason: *In the interests of amenity and to comply with policy AG1 of the ADLP.*

4. C14N (No hot food to be sold for the consumption off the premises)

5. C16B - amended
   The premises shall be used for the following purposes only, No.2 Tarmount Lane – A3 Restaurant; Units 2B, 2C, 2D, 4C & Ground Floor of No.8 Tarmount Lane – A1 Retail; Units 2G, 2F, 2H, 4E & the first floor of No.8 Tarmount Lane B1 Business; and Unit 4B Sui Generis beauty and reflexology/massage therapy, as defined in the Town and Country Planning (Use Classes) Order 1987 or in any equivalent to that Class in an Statutory Instrument revoking and re-enacting that Order with or without modification.
   Reason: *For the avoidance of doubt to comply with AG1 of the ADLP*

6. 10Di - amended
No articles for sale, floor mounted signage, raw materials, finished or unfinished products or parts, crates, packing materials, nor any other items shall be stacked, stored or displayed anywhere outside the front of No.2 Tarmount Lane, including the pedestrian entranceway, and No.8 Tarmount Lane, unless otherwise approved in writing by the Local Planning Authority.
Reason: *In the interests of visual amenity and to retain adequate off-street parking space and to comply with policy AB3 & AB4 of the ADLP.*

7. The garages to the rear of No.8 Tarmount Lane shall be used as ancillary storage space for the occupiers of No.8 and for no other purposes.
Reason: *In the interests of amenity and to comply with policy AG1 of the ADLP.*

8. C8Gi - amended
Within three months of the date of this permission secure and covered bicycle storage, and refuse and recycling bin storage shall be provided in accordance with details to be submitted to and approved by the LPA and such provision shall thereafter be used only for access and parking of cycles and storage of bins.
Reason: *To ...etc*

9. The development hereby permitted shall be carried out in accordance with the following approved plans: 37-09-07 Rev C; and 37-09-02 Rev B date stamped received 25.05.10.
Reason: *For the avoidance....etc*

Case Officer Carlos Hone Date 27.05.10 (B27/5

Planning Service Manager: Date:

Chairman of the Planning Comm [redacted] Date: 2/06/10