Expired

Development Control – Delegated Report

Application Number: ADC/0557/08 Recommendation – REFUSE

Site: **Honey Pizza, 95B South Street, Lancing BN15 8AP**

Proposal: **Variation of conditions 1 and 2 of L/20/03 to enable extended opening hours of 08.30-23.30 Tuesday-Thursday (with deliveries 23.30-00.00) and 08.30-23.30 Friday and Saturday (with deliveries 23.30-01.00)**

The Application

The premises are situated on the corner of Roberts Road and were formerly known as Great Italian Pizza Co.

The permission L/20/03, which permanently renewed (with variations) the earlier temporary permission L/138/00, was for continued opening of this take-away until 11pm, with all activity ceasing by 11.30pm.

The present application seeks to extend the opening hours from 11pm until 11.30pm Tues-Sat, plus allowing a home delivery service to continue later until 12 midnight on Tues-Thurs and until 1am on Fri and Sat. The statement supporting the application refers to the applicant needing to create a more viable and sustainable pizza take-away and delivery business to provide an essential vital focal point for the local community. It is stated that the front lights will be turned off at 11.30pm and no customers allowed to enter after that time. After that time, orders will only be taken by phone and food only delivered by staff.

The premises were first permitted to be used as a takeaway in 1991 and were then restricted to a 10pm closing time. In 1997/8, the hours were extended until 10.30pm with home deliveries until 11pm. In 1999, temporary permission was granted to open until 11pm (with on-site activity ceasing by 11.30pm) and this was renewed in 2000 but with an additional relaxation to allow opening until 12 midnight on Fri and Sat. However, on application for renewal in 2003, following consideration of objections from nearby residents, the opening times were curtailed back to 11pm every day (and 11.30pm for all activity to cease).

There are a significant number of other takeaways and restaurants in this southern section of South Street. No.132 commenced before planning permission was needed; No's 93 and 170 were permitted in 1970 and 1963 respectively without any conditions restricting opening hours; No.155 was permitted in 1980 with a condition requiring closing at 11.30pm; No.129 was permitted in 1982 with a condition requiring closing at 10.30pm; and No.131 was permitted in 1991 with a 10pm restriction.

Consultations and Representations

Adur District Council: The Environmental Health Officer objects on grounds that the extended hours would result in disturbance to surrounding residents owing to factors such as vehicle noise, including associated door slamming, radios, etc. Comment is made that the premises have been the subject of past complaints when previously operating after 11pm.

Lancing Parish Council: Express concern about extended late-night delivery times as there have been complaints. Suggests opening hours be limited to 11pm with home deliveries until no later than 11.30pm (Mon-Fri) and 12 midnight (Fri-Sat).

Third Parties: 5 letters of objection have been received from residents at 95C, 118 & 120 South Street and 2 Roberts Road, and one anonymous. The main grounds of objection are that later hours would attract more cars and people and disrupt sleep. In the past, extended hours have resulted in much disturbance to residents with people shouting and screaming (including drunken persons and use of obscenities), and instances of robbery and violence, causing local residents to be in fear of crime.

Relevant Planning Policies and Guidance

Adopted West Sussex Structure Plan 2001-2016 (WSCC 2005) (saved policies): DEV1
Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AS1
PPS 1 'Delivering Sustainable Development' (ODPM 2005)
PPS6 'Planning for Town Centres' (ODPM 2005)
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 area on the east side of South Street specifically subject to policy AS1 of the Local Plan. This states that shopping and food & drink uses will be permitted "subject to no loss of amenity to nearby residents".

Structure Plan policy DEV1, entitled high quality development, states that development should not be permitted unless it takes into account the need to, amongst other things, integrate with and where possible enhance adjoining land uses and minimise conflicts between land uses and activities; and have regard to local context including site characteristics.

PPG24 states that food & drink uses, particularly fast food restaurants, public houses and night clubs, pose particular difficulties because their activities

peak in the evening and late at night. 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.

PPS6 states that planning policies need to manage the evening and late-night economy in appropriate centres, encouraging a range of complementary uses for a wide range of age and social groups. Councils should consider the scale and impact on the character of the centre, anti-social behaviour, crime, and the amenities of residents. They should ensure an integrated approach taking account of 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 flexibility to avoid concentrations of customers leaving premises at fixed and artificially early closing times and this is reflected in this Council's Licensing policy statement which seeks slower dispersal of people through a variety of closing times.

Effect on residential amenity

As stated above, there are a significant number of other restaurants and takeaways in this street, with a variety of opening hours, some predating planning control. Following the adoption in 1985 of ADC's supplementary planning guidance "Late Night Opening of Restaurants and Take-aways", it became the practice in Adur to require closing of take-aways in predominantly commercial streets at 11pm, and 10.30pm in more residential areas. It allowed for the possibility of later opening of takeaways only in isolated cases on a temporary basis depending on the proximity of residential properties. In the instance of these particular premises, such a temporary permission was granted in 2000 but, owing to complaints, when renewal was sought in 2003 a closing time of 11pm was imposed (with all activity ceasing by 11.30pm).

Although PPS6 (2005), under the new licensing regime, encourages more flexibility and generally less restriction of opening times to avoid concentrations of people leaving licensed premises, it is not considered that this necessarily implies that later opening is acceptable in all cases.

Whilst the present site itself is within a small area identified for Class A1 and A3 (now A3-5) purposes, the character of the surroundings of the site is predominantly residential with houses and flats on the opposite side of South Street, residential accommodation above the premises and above other shops, and houses to the rear in Roberts Road. All are in relatively close proximity.

Past experience has shown that opening after 11pm resulted in unacceptable noise and disturbance from persons, including intoxicated youths, attracted to and congregating at these premises and behaving rowdily. Residents have a reasonable expectation to be able to sleep after 11pm free from disturbance.

Apart from the behaviour of customers, noise would also arise from vehicles making home deliveries until as late as 12 midnight on Tues-Thurs and 1am on Fri and Sat. The Roberts Road dwellings are close to the rear service door

and parking space for the takeaway, being obliquely opposite, so would suffer most. In 2003, when the application to renew the temporary permission granted in 2000 was being considered, the residents then inhabiting No.30 Roberts Road complained that the noise generated by car doors slamming, engines revving and loud conversations caused sleep disturbance and was frustrating and distressful because they had a young family. It is considered that the present proposal would be likely to result in a recurrence of these problems.

Recommendation

REFUSE for reason that:-

1. The proposal has the propensity to result in noise and disturbance at unsocial hours to residential accommodation situated in close proximity to the site and would thereby be detrimental to the amenities of this largely residential locality. It is therefore considered to be contrary to the requirements of policies AS1 of the Adur District Local Plan and DEV1 of the West Sussex Structure Plan.

Case Officer.....Keith Mayo..... Date...2/2/09.....