Development Management - Delegated Officer Report

Application Number: AWDM/2012/21 Recommendation – APPROVE

Site: 268 Upper Shoreham Road, Shoreham-by-Sea BN43 6BF

Proposal: Change of use of ground floor from existing Class E retail unit into a hot food takeaway (Use Class Sui-generis) together with the installation of an extraction system; a flue on the rear elevation; and new shop front

Date of site visit: Have previously attended site and neighbouring properties ~ Assessment has been assisted using the Applicants plans; Earthlight mapping; and Google 3D of the site

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings:

The application site is located on the north side of Upper Shoreham Road, in Shoreham, and is a two storey end of terrace property. The ground floor is currently vacant, but a fascia sign shown on Google Maps indicated its previous use was a dog grooming parlour. The upper floor appears to be in residential use and a recessed door to the side of the shop is the entrance to the first floor.

The terrace and nearby properties on this side of the road, have commercial uses on the ground floor and appear to have residential on the upper floors. Out of the 6no. properties within this terrace, there are 3no. restaurant and/or take-away uses within the ground floor commercial areas for example ‘Jasmine’ a Chinese take away; ‘The Tides’ Pizzeria; and ‘Uncle Sams’ hamburgers.

There are also 5no. commercial uses directly neighbouring the terrace of units and fronting the corner with Upper Shoreham road and Garden Close.

The property has a rear extension and many within the terrace also have been extended to the rear.

The neighbouring property, no. 270, ‘Jasmines take-away’; has a flue to the rear

Proposal:

The proposal seeks permission for a change of use from A1 (now Class E) retail to a fish and chips take away (sui generis). The proposal would also seek permission for an extraction system and a flue to rear elevation. There will also be a new shopfront.

The forms indicate that the proposed opening times will be:-

Opening Mondays – Saturdays 11.00 ~ Closing Mondays – Saturdays 23.00
Opening Sundays and Bank Holidays 11.00 ~ Closing Sundays and BH's 22.00

Consultations:

Environmental Health Private Sector Housing: No comment

Environmental Health Pollution:

For the proposed cooking type (fish and chips) the abatement proposed within this extraction system is reasonable. I have listed below the information that is still required:

- Inspection/cleaning hatches located every 2m along ductwork and marked on the plan.
- Ducting should be mounted on anti-vibration mounts
- Details should be provided concerning the servicing and maintenance of the system (frequency of ductwork cleaning, fan servicing, cleaning of carbon filters and cleaning/replacing pre-filter).
- BS 4142:2014+A1:2019 Noise assessment to ensure noise from the extraction system will not cause disturbance to nearest noise sensitive dwellings (as previously advised)
- Noise Insulation scheme and testing to ensure sound insulation between commercial unit and residential units above achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB) for all floors (as previously advised).

Latest Env H Response

I have received the response below from the applicant. From my perspective I think he has covered everything. Once everything is in place we would require noise tests to be undertaken. I would recommend the conditions below:

The use hereby permitted shall include the sound insulation scheme, recommended by Acoustics Plus in their Noise Impact Assessment (ref. 104267.ph.Issue 1 dated 17.01.22), for protecting the upper floor residential unit from noise. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB). Following implementation of the insulation scheme, a test shall be undertaken to demonstrate that the attenuation measures carried out has achieved the minimum airborne sound insulation criteria. The use of the development shall not commence until test results, demonstrating the minimum sound insulation criteria has been achieved, has been submitted to and approved by the local planning authority.

The use hereby permitted shall include the approved scheme for extraction and disposal of cooking odours submitted with the application and the noise mitigation specified within Acoustic Note ph-104267-01 (28th January 2022). The equipment

approved under this condition shall be installed before the use hereby permitted commences. Following implementation of the scheme, a noise test to demonstrate compliance with the scheme shall be undertaken before the use commences. This noise test should have regard to the principles of BS 4142:2014+A1:2019 to ensure there is no detrimental impact to the nearest residential dwellings. The fan and ducting should be installed on anti-vibration mounts, all plant and abatement shall be maintained in accordance with manufacturer's guidance and any future plant shall also meet the specified levels within the approved scheme.

No plant or equipment, including the kitchen ventilation and extraction system, shall be operated on the premises except between the hours of 11:00hrs - 23:00hrs Mon - Sat and 11:00hrs - 22:00hrs Sun and bank holidays.

Letter from Estate Agents:

268/268A Upper Shoreham Road, Shoreham by Sea.

My firm, Graves Son & Pilcher LLP, commenced the marketing of the abovementioned premises at the end of August 2020.

We were instructed to offer the freehold interest inviting offers in the region of £300,000. There was a reasonable amount of interest, culminating in an offer in excess of the guide figure. However, our client, on the advice of her accountants, decided at a late stage not to sell the freehold interest.

In early December 2020 we were instructed to change tack and offer the entire property on a lease inviting offers of rental in the region of £18,500 per annum exclusive. There were quite a number of interested parties, most of whom were not considered substantial enough to embark on the commencement of business paying rent, insurance and dealing with repairs.

Eventually a local trader with known financial and business abilities was identified. Solicitors were instructed and after some months an Agreement for Lease was exchanged dependent upon satisfactory completion of the outgoing tenant's dilapidations works. The works were completed but the tenant then requested release from the agreement.

Marketing commenced once again. There were yet another batch of interested parties together with others who had shown interest before the deal was agreed with the previous party.

For marketing purposes the property appeared on all of the main known web marketing portals including Rightmove, prime location, Zoopla, EGProperty link, Realla, Movehut and others.

For both marketing of both the freehold and the leasehold, particulars were employed and boards were displayed on the property throughout the marketing both marketing campaigns with the exception of the boards were removed while under contract to the party that had to pull out.

Eventually terms were agreed with one of those parties to lease the premises but Covid anxieties prevented them from proceeding further. Indeed, the Covid pandemic has caused considerable problems in marketing the property.

Furthermore, another problem exists. Unless one tenant takes over the entire premises there are serious Health & Safety works that would be required to separate the flat from the shop. Our client is not inclined to spend a five figure sum on the necessary works to complete two different tenancy arrangements.

We have now found a party who has the financial and business capabilities of leasing the entire property. That person is aware of the works that would be required to separate the residential and commercial (shop) elements. The matter is now in solicitors' hands and subject to obtaining planning consent to use the shop element for hot food take away use; a use that our client feels not only fulfils the function of a neighbourhood shop nowadays but ever increasing demand from the local population for food supplies which is a problem accentuated by the previous three lockdowns.

Local Plan Policy Response:

Within the Adur Local Plan 2017, this is counted as a single retail parade of 11 units. From the info you've sent I can see this would be the 4th hot food takeaway. However I don't have the information to say whether a predominantly retail use would remain, as required by Policy 27, as I'm not aware of the other uses - this will be something you might want to clarify for your purposes.

However I can see from the supplementary info provided that this property has been marketed for some time (on and off since August 2020) with limited interest, and that viability matters have been an issue. As such I don't wish to make a policy objection.

WSCC Highways

The site is located on Upper Shoreham Road, a C-classified road subject to a speed restriction of 30 mph. WSCC in its role as Local Highway Authority (LHA) raises no highway safety concerns for this application.

Content
No vehicular access is associated with this site. Considering the existing retail use, the LHA does not anticipate that the proposed change of use would give rise to a significant material intensification of movements to or from the site.

An inspection of collision data provided to WSCC by Sussex Police from a period of the last 5 years reveals no recorded injury accidents attributed to road layout within the vicinity of the site. Therefore, there is no evidence to suggest the nearby road network is operating unsafely or that the proposal would exacerbate an existing safety concern.

No parking is associated with this site. Therefore, parking would have to be accommodated on-street, as per the existing arrangement. Whilst on-street parking is limited in the area, there are comprehensive parking restrictions in place prohibiting vehicles from parking in places that would be a detriment to highway safety. The LHA does not anticipate that the nil car parking provision would result in a detrimental impact on highway safety, nor give rise to a parking capacity issue. The LPA may wish to consider the potential impacts on on-street parking from an amenity point of view.

The applicant is advised to consider implementing secure and covered cycle parking provision for staff, in accordance with WSCC parking standards, to promote the use of sustainable transport methods.

Conclusion
The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in severe cumulative impacts on the operation of the highway network, therefore is not contrary to the NPPF (para 111), and that there are no transport grounds to resist the proposal.

Representations:

Letter of objection from 4 Garden Close:

- Main concern is the increase in volume of traffic caused by delivery lorries at the rear of the premises as these impinge on my front and back gardens;
- Deliveries to existing businesses frequently block access to my driveway and damage the fence at the back garden;
- A new business will increase the frequency of these problems.
- Drivers often park in the Close there isn't enough room for customers of existing businesses at the lay-bys at the front of the premises
- Delivery times and noise caused by staff out the back of the takeaway's are also cause for concern for my back gardens and back rooms back onto their property
- This combined with the long opening hours will interfere with my sleep throughout the year and affect my privacy
- Smell of the food will cause a concern

Letter of support 272 Upper Shoreham Road:

- The shop unit has been vacant for the last 2 years
- The parade needs all of the units open to attract more customers and maintain the viability of the parade
- Parking is not an issue
- There is a need to uplift the shops
- The unoccupied unit will attract vandalism and undesirables
- We really hope the application is approved so that a needed community fish and chip shop can be allowed which will serve the businesses and residents in the area, most of whom would walk there
- The new use would create employment which would benefit all

Support letter from applicant:

I am writing this letter in regards to my planning application for a change of use to Fish and Chips Shop at 268 Upper Shoreham Road BN14 6BF.
Currently the property is vacant and has been Since Dec 2020, I have agreed with the marketing agency to take over the property if I can obtain a change of use for a Fish and Chips shop.

It will be a family run business and staff will be recruited locally to boost our local economy, speaking to the community they are much supportive of a Fish and Chips Shop as there isn't one nearby.
I am experienced in running a Fish and Chips shop and hope to do well at this location. We aim to modernise and move on with the needs of the customers and will invest in click and collect technology.

Relevant History: None

Relevant Planning Policies and Guidance

Adur Local Plan 2017 Policy 1, 15, 27, 34
National Planning Policy Framework 2021

Policy 27: Retail, Town Centres and Local Parades

Within the defined town centre boundaries of Shoreham-by-Sea, Southwick and Lancing (as shown on the Policies Map), town centre uses will be permitted, subject to compliance with other relevant policies.

Development within the primary and secondary shopping frontages will need to be in accordance with the place based policies in Part Three of this Plan.

New development for town centre uses outside of the defined town centre boundary (or Primary Shopping Area in the case of retail uses) will be assessed in accordance with the NPPF sequential test. An impact assessment will be required for any proposed retail development outside of the Primary Shopping Area with a net sales floorspace of 1000 sq.m or more.

In the areas designated as local shopping parades, shopping and other town centre uses will be supported at ground floor level but a predominant shopping use (as defined in the Town and Country Planning (Use Classes) Order 1987 as amended) on ground floor premises will be retained. Where proposals would result in there no longer being a predominant shopping use, this will only be acceptable where it can be demonstrated that retail in no longer a viable use in that unity, particularly where it has remained vacant for a long period (normally a minimum of one year) and that reasonable attempts have been made to market it for retail purposes.

Policy 34: Pollution and Contamination

Development should not result in pollution or hazards which prejudice the health and safety of the local community and the environment.

New development in Adur will be located in areas most suitable to the use of that development to avoid risks from noise, air, odour or light pollution.

Mitigation measures will need to be implemented for developments that could increase levels of pollution or have a negative impact on drinking water supplies in Adur. Where there are significant levels of increased pollution that cannot be mitigated, development will be refused.

Where appropriate, air quality assessments and/or noise assessments will be required in conjunction with development proposals.

Investigations and assessments of all sites situated in or in close proximity to potentially contaminated land will be required in relation to relevant development proposals.

Planning Assessment

Principle

The Local Plan policy requires evidence to be put forward of why the change of use of the site within a retail area should be allowed, and the applicants have submitted evidence from estate agents to show that the property was first put on the market in August 2020, with limited interest. The evidence has been put to the Policy team who have not raised an objection to the proposal. It is thereby considered that the change of use to a take away will be an acceptable use within this location, despite not being a retail use.

The relevant issues are the effects on the amenities of neighbouring residential occupiers and the effect on the character and appearance of the surrounding area.

Visual & Residential Amenity:

The shopfront proposed will have a central door into the unit whereas it is currently off to one side. The door will also be a double opening door which often assists the movements of customers and deliveries. There is no uniformity in the positioning of doors within the existing commercial units, therefore the relocation of the door will not be out of character with the area.

There are 3no. other restaurants/takeaways within the terrace, the current application will make that 4no. It is considered that as all the types of food on offer from the units vary from one another, the addition of this unit will not result in an unacceptable mix of food venues.

A flue duct will be provided to the rear of the property which has been relocated closer to the existing flue relating to the adjoining user, and will not be out of character with the rear elevation of the buildings.

There is no objection from Environmental Health to the amended scheme including the flue, and an additional condition required by that department will be applied to any permission gained.

There is also no objection from other consultees on the proposal, but there is a letter of objection from a close neighbour who is concerned about the increase in the volume of traffic caused by delivery lorries etc. The blocking of the residential drive by previous delivery drivers is not a material planning consideration to this current application. The objector's property is unfortunately positioned next to the existing commercial uses and next to the existing rear access relating to the commercial

uses, but as the use of the neighbouring premises are already commercial, it is not considered that there will be a material increase, if any, of deliveries over that from the existing use. Hours of use and deliveries can be controlled by condition to limit any loss of amenity.

Parking and Highway Impact

With regard to anxieties and issues relating to parking for the use and staff together with possible highway impact of the use, it is noted that the County Highways have looked at the issues and raise no highway safety concerns for the proposal. And other than one residential neighbouring property, no others within Garden Close have made submissions regarding the application. The neighbouring property that has objected is positioned next to the commercial units and next to the rear access to the commercial units, therefore it is unfortunate that they will likely notice the deliveries etc. that take place to all 11no. of the units, which includes the application site under its former use.

With regard to the current application a condition will be attached to any approval limiting loading or unloading of deliveries other than between the hours of 0900hrs and 1800hrs on any day.

There is also a parking layby to the front of the 6no. terrace units and a parking area to the front of the other 5no. units which greatly assists in the placement of vehicles off of the road proper. Notwithstanding this, cars could park on the street where there are no existing parking restrictions in force. The parking layby restricts parking to no more than one hour and no return within 1 hour. It is thereby considered that there is adequate on street parking available for users of the existing and the proposed units.

Recommendation

APPROVE

Subject to Conditions:-

1. Approved Plans
2. Standard time limit
3. Materials of the shopfront
4. Sound insulation scheme
5. Extraction disposal of cooking odours
6. Operating times of plant etc.
7. Opening hours and deliveries

Informatives:-

1. Approved following amendment

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

Case Officer: Eve Hearsey Date: 16.03.2022

Authorised by: Peter Barnett Date: 16 March 2022