Expiry Date - 17/04/2012

Development Control – Delegated Officer Report

Application Number: AWDM/0234/12 Recommendation – APPROVE

Site: 132 Beach Green Shoreham-By-Sea West Sussex BN43 5YA

Proposal: Continued use as a hot food takeaway and cafe with opening hours of 7.30am-10pm (permanent renewal of ADC/0003/11)

The Application

This application is for renewal of the temporary permission ADC/0003/11 which was itself a renewal of the original permission ADC/0408/09 granted on 7 January 2010. That permission had been granted by Committee after a previous refusal for use as a cafe in 2008 (ADC/0344/08) because of lack of provision for odour extraction.

The premises lie within a short parade of shops/commercial units on the ground floor of two attached three-storey blocks of flats comprising Princes Court. The double unit which is the subject of the application was previously a newsagents with Post Office. To the east is the entrance door/stairs to the flats above, with 2 other units beyond. To the west are 2 further shop units located in the attached building which is set much further back from the road. To the rear (north) are garage blocks.

The present application is to renew the change the use from a shop (A1) to a hot food take-away (A5) with café (A3). The use consists of cold take-away foods (such as sandwiches and fruit) and hot takeaway food comprising beefburgers, hot dogs and pizzas, plus tea, coffee and ice cream. The cooking is by means of a ventless fryer and a ventless microwave/convection oven which do not require any external extraction. The rear windows are stated to be openable, as required by H & S guidelines, to enable air into the kitchen area.

Consultations and Representations

West Sussex County Council: Previously raised no objection, commenting that the proposal is unlikely to lead to an increase in vehicle movements to the point where a highway safety issue would arise.

Adur District Council: The Environmental Health Officer states that he has no objection, having received no complaints.

Third Parties: No comments received.

Relevant Planning Policies and Guidance

Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AS5
PPS1 'Delivering Sustainable Development' (ODPM 2005)
PPG24 'Planning and Noise' (DoE 1994)
'Guidance on the Control of Odour & Noise from Commercial Kitchen Exhaust Systems' (DEFRA Jan 2005)

Planning Assessment

Policies

The site is located within a small neighbourhood shopping parade serving the west part of Shoreham Beach. Policy AS5 of the Local Plan states that permission will not normally be granted for changes to non-retail use at ground floor level; proposals for non-retail uses will be treated on their merits and will be assessed in relation to the need for the proposed use compared to retail use of the particular premises concerned.

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.

Principle of Development

Although not an A1 use, the use as a takeaway with cafe is a type of retail service and is acceptable in principle. There are other A1 uses within this parade of shops and the takeaway/cafe helps to maintain the viability of the parade. The other main concerns are the effects on the residential amenities of the locality especially the flats directly above from cooking smells and noise disturbance, and on highway safety.

Residential Amenity - noise

As regards noise from customers and activity, the main concerns are the periods when background noise levels are lower. Disturbance from a takeaway is potentially more than from a restaurant owing to the greater frequency of customers arriving and departing. However, the impact on nearby residential properties can be kept to an acceptable level if the opening hours are restricted to prevent unacceptably early morning and late evening opening.

The requirement to open at no earlier than 8am and to close to customers at 10pm was considered justified and as it had been accepted at other neighbourhood parades with flats above. In practice, it did not give rise to complaint. The applicant's subsequently proposed earlier opening at 7.30am had the potential to cause disturbance to residents above, especially if food is prepared or cooked prior to that time in order to be ready, and for that reason only a temporary permission was granted, to provide a trial period. However,

no complaints have been received since it was granted and there is now insufficient reason to withold permanent permission.

Residential Amenity - odour

At the time of the original application the issue of cooking odour was considered a difficult one to resolve in this particular case because of the residential flats above. The applicant proposed cooking of beefburgers and hot dogs by means of a ventless fryer with a ventless microwave/convection oven used for regenerating pre-cooked foods. He pointed out that these do not require any external extraction, utilising an American self-contained greaseless frying system and a convection oven designed to use air to heat pre-cooked food. The Environmental Health officer had concerns having no evidence to prove the efficacy of the proposed ventless fryer and ventless microwave/convection oven. In the event, however, it has been satisfactory, with no complaints received about odour.

Access and parking

Local residents originally expressed concerns that the use would attract more traffic to a location where there is already insufficient parking, aggravating existing problem of parking on pavements and obstructing accesses, and increase the chances of accidents on a corner where drivers travel too fast. However, it was not considered that the use would generate more traffic than the previous use as a newsagents/post office and WSCC, as the local highway authority, had no objection. During the trial period of the use, there has been no evidence to indicate that the proposal has generated significantly more traffic or highway safety problems than the lawful use as a shop.

Recommendation

APPROVE for the reason:-

The use helps support the vitality and viability of this neighbourhood shopping parade and, subject to compliance with the conditions, does not cause unacceptable disturbance or other detriment to the residential amenities of nearby flats or adversely affect highway safety. It does not conflict with the relevant policies of the Adur District Local Plan (AG1, AS5).

Subject to:-

1. C14L .....hours of 7.30am and 10pm .....All activity shall cease at the premises by 10.30pm.
2. Cooking, regeneration and re-heating of food shall be solely by means of a single ventless fryer and a single ventless microwave/convection oven and by no other means without the prior written approval of the LPA. *R. as 03 of ADC/0003/11*
3. No air extraction or air conditioning shall be installed at the premises unless in accordance with details which have first been submitted to and approved in writing by the LPA. *R. as 04 of ADC/0003/11*

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Case Officer: Keith Morgan Date: 23 March 2012