Development Management - Delegated Officer Report

Application Number: AWDM/0341/14 Recommendation – Approve

Site: 20A Southwick Square, Southwick
West Sussex, BN42 4FJ

Proposal: Application to remove condition 1 of AWDM/0693/13 to enable permanent use of premises as a restaurant/cafe, drinking establishment and hot food takeaway

Date of site visit: Seen previously

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application relates to the first floor premises known as 'Café Cube' above a ground floor shop on the north side of Southwick Square. The building is two storeys in height and is adjacent to an oriental food store with storage above. There is no residential accommodation in this particular building although there are flats above the shops to the west and on the opposite side of the Square to the south. An access road leading to a public car park and garage block runs immediately to the west, separating the building from the shops and flats beyond.

Temporary permission (AWDM/0693/13) was granted, contrary to the Officer's recommendation, in September 2013 for an extension of the opening hours at Café Cube from 8.45am to 10.30pm Monday to Saturday to 8am-11pm Monday to Thursday, 8am-11.30pm Friday-Saturday, and 9.30am-9pm Sundays and Bank Holidays.

The decision also permitted a change of use of the premises from a restaurant with no takeaway (Class A3) to a mixed use of restaurant, drinking establishment (A4) and takeaway (A5). Permission was for 6 months only and expired at the end of February.

This application is seeking to make the above hours and use permanent.

Relevant Planning History

As above plus

SW/59/85 – Change of use of first floor from storage ancillary to shop to include use as coffee bar –approved by Notice dated 16/09/85

SW/51/91 – Amendment of Conditions 2 and 3 of SW/59/85 to permit use of first floor as restaurant (opening hours 8.45am-10.30pm) and enclosed staircase at rear – Temporary permission granted by Notice dated 8/10/91

SW/29/92 – Continued use of first floor as restaurant – approved 15/6/92 subject to following conditions:

1. The premises shall not be open for trade or business on Sundays or Public Holidays nor at any other time except between the hours of 8.45am and 10.30pm, and there shall be no external illumination on the premises outside these specified hours
2. The premises shall not be used for the sale of food and drink for consumption off the premises

AWDM/0672/12 - Application to vary condition 1 of planning permission SW/29/92/TP to vary the hours the premises can be open for trade or business from 8.45 am and 10.30 pm to:- Monday to Thursday from 6.30 am to 11.00 pm, Friday from 6.30 am to 12.30 am, Saturday from 8.00am to 12.30 am and Sunday from 8.00 am to 11.00 pm - refused by Notice dated 12 July 2012 for the following reason:

The proposed extension of the opening hours will result in harm to the amenities of neighbouring residents through increased noise and disturbance at unsocial hours, thereby conflicting with policies AG1 and AS1 of the Adur District Local Plan and the National Planning Policy Framework.

Consultations

Adur & Worthing Councils: The ***Environmental Health Officer*** previously objected and requested that permission for A4 use is refused. He stated that A4 use during the hours requested is inconsistent with other business in the square and would be detrimental to the amenity of the neighbouring residents. There are residents to the West and South of the premises that are likely to be affected by noise from customers smoking and from entering and leaving the premises late at night. The Square forms a canyon and loud voices would reverberate around the area at night, when most of the other business is closed.

The café occupies an area that was once a store room for the shoe shop that existed below. There are single glazed windows on the South and West facades of the café which are opened for ventilation and thermal comfort during the hot summer months, there is no air conditioning in the premises. Access to the premises is up external concrete steps, not ideal if customers have been drinking. This is not a purpose built development that can be designed to mitigate noise from these sources.

He had no objections to the premises being open on Sundays and Bank Holidays for A3 and A5 use. However, he requested the following hours:- 8am to 11pm Monday to Saturday, with all food orders ending at 10pm to ensure the premises is vacated by 11pm. 8am to 9pm Sundays and Bank Holidays, with all food orders ending at 8pm to ensure the premises is vacated by 9pm. These hours would be more a kin to the other restaurant in the square and would be in keeping for the locality. The following condition should also be placed on any new permission:-

“The bar shall only be open to customers seated having a meal or customers waiting to be seated for a meal”.

In response to the ***current application*** he has stated that his views have not changed and he continues to believe that the A4 use is inappropriate for the area. He has confirmed that no complaints were received over the 6 month trial period, but it should be noted that the trial incorporated mainly winter months. As a compromise, he has suggested that a temporary 5 year permission should be given for the A4 use so any impact can be assessed over a number of summers, the season when windows will be open and when noise, if a problem will be more likely to be raised.

Representations

None received

Relevant Planning Policies and Guidance

Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AS1
National Planning Policy Framework (CLG 2012)

Planning Assessment

Principle

Policy AS1 of the ADLP supports development for shopping and food and drink purposes within shopping areas such as this, subject to several criteria, including that there is no loss of amenity to nearby residents. The premises have an A3 restaurant use with restrictions on the opening hours and the main issue is the impact that the permanent change of use and extended hours would have on residential amenity.

Visual amenity

No change to the outside of the premises is proposed.

Residential amenity

The main issue is the impact on amenity which would arise from a continued change of use and extension of hours.

The premises were formerly in use as a restaurant (Class A3), which is appropriate and accords with policy AS1. However, the premises (which is accessed via stairs at the rear) has more recently been used as a café, bar, restaurant and takeaway which extends the use of the premises into Classes A4 (drinking establishments) and A5 (hot food takeaways).

Given the proximity of residential properties to the premises there has been a concern that a bar use in this location is inappropriate. While there is no flat immediately adjacent to the premises, there are flats to the south and west. A restaurant use alone would not be expected to result in undue disturbance to residential amenity; however, representations received before and during the

course of the previous application suggested that the use is more akin to a bar in the evenings with noisy drinkers causing considerable disturbance. The impact is made worse by the lack of sound insulation at the premises (as a result of it being originally only used as an ancillary storage area). With windows open, voices can be heard across the street. Patrons leaving the premises after midnight also cause disturbance. The flats on the opposite side are about 20m away and sound can reverberate, particularly at night when it is quiet, which exacerbates the noise impact.

The applicants have sought to reduce the impact on neighbours by ensuring that windows at the front are closed and blinds drawn about 9pm each evening. Windows remain open on the west side of the building and there are several large fans in use to ensure some ventilation. The premises close at 11pm Monday-Saturday. This is similar to the opening hours of The Cricketers Pub on The Green, at the western end of Southwick Square, and is more reasonable than the 2am closure alleged by complainants previously.

The Environmental Health Officer has continued to express concerns at the use of the premises as a drinking establishment due to its first floor location and position within the Square. It is not a purpose-built pub, such as The Cricketers, and is centrally located within the Square rather than facing The Green in a relatively more open location. Noise from the use and from people leaving the premises has the potential to disturb due to the relatively close proximity of the buildings opposite and the resulting noise reverberation. The EHO has suggested that a further temporary permission is granted to enable the use to be monitored over summer months, when windows are more likely to be open. He has suggested a 5 year temporary period.

However, no complaints have been received in connection with the use since the last permission was granted and there have been no objections received to the current application. While the comments of the EHO are noted and understood, it is considered that in the light of the lack of any complaint or objection since permission was granted in September 2013, a further temporary consent is not justified and a permanent permission can now be granted.

Accessibility and parking

The application does not alter parking and access at the property.

Recommendation

APPROVE for the reason:-

The change of use and extended opening hours will increase the viability of the business but does have the potential to cause disturbance to nearby residents. However, following a 6 month trial period during which no complaints were received, it is considered that the use does not have an adverse impact upon the amenities of the locality. It does not therefore conflict with the policies of the Adur District Local Plan (AG1, AS1) or the policies of the National Planning Policy Framework.

Subject to Conditions:-

01. The premises shall be used only as a restaurant/cafe, drinking establishment and hot food takeaway (Use Classes A3, A4 and A5) and for no other purpose.

Reason: In the interests of amenity having regard to saved policies AG1 and AS1of the Adur District Local Plan.

02. The takeaway use (Class A5) hereby permitted shall only operate between the hours of 8am and 9pm on any day.

Reason: In the interests of amenity having regard to saved policy AG1 of the Adur District Local Plan.

03. The premises shall not be open for trade or business as a bar/restaurant/cafe (Use Classes A3 and A4) other than between the hours of 8am and 11pm Monday-Saturday and 9.30am and 9pm on Sundays and Bank Holidays and all activity associated with the uses shall cease at the premises within half an hour of this closing time.

Reason: In the interests of amenity having regard to saved policy AG1 of the Adur District Local Plan.

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

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Case Officer: Peter Barnett Date: 15 April 2014

Authorised by: Gary Peck Date: 16 April 2014