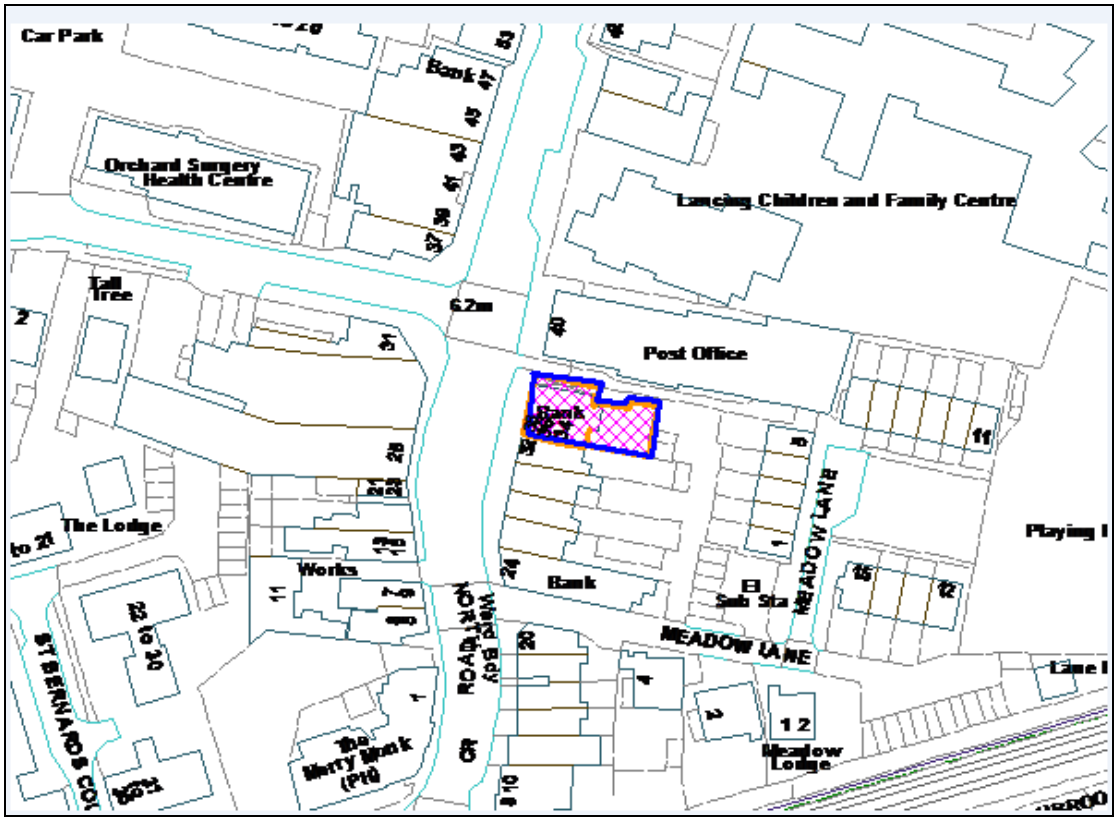
Application Number: AWDM/0325/16 **Recommendation – APPROVE**

Site: **34 North Road Lancing West Sussex BN15 9AT**

Proposal: **Change of use from Use Class A2 (professional services) to Use Class A5 (hot food takeaway) with replacement shopfront and installation of extraction and air conditioning units to north elevation.**

Applicant: Southern Creations Ltd Ward: Mash Barn
Case Officer: Jo Morin



Not to Scale

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Site and Surroundings

The application relates to part of a vacant former bank premises (Class A2) which occupied the ground-floor and part of the first-floor of a 2-storey end-of-terrace building on the east side of North Road, within the primary shopping area of Lancing. The remainder of the first-floor toward the front of the building is in use as flats (Nos: 1-6, 38 North Road) accessed via external steps leading off a covered passageway on the north side of the building.

The application site includes a tarmac car park to the rear of the building accessed from Meadow Lane. The covered passageway provides pedestrian access between North Road and the rear car park (and Meadow Lane

beyond). It is privately owned but used by the public as a ‘cut through’ to North Road.

Attached to the south side is a retail shop. To the north of the site is Lancing Post Office, which is serviced by a vehicle access drive along its south side. The site forms part of a parade of 6 units. On-street public parking is available in a layby in front of the parade.

Proposal

Permission is sought for a change of use of the ground-floor front part of the premises (132sqm) to a hot food take-away (Class A5) with a replacement shopfront and installation of extraction system and air-condenser units on the north side. The proposed opening hours are between 1100 hrs and 2300 hrs daily.

A Planning Statement submitted in support of the application expands further:-

“The proposed A5 use comprises of a Pizza Hut Delivery outlet which would include a home delivery service. The home delivery service would represent a significant proportion of sales (approximately 80%). The proposal includes alterations to the existing shop frontage in order to maintain a main public entrance into the unit, as well as a private front entrance for employees. An additional private entrance into the site, along with a bike store, is proposed off the existing covered side access that runs along the northern elevation of the site.

Two car parking spaces located within the rear car park/service yard are allocated to the unit. It is proposed that these spaces will be utilised for private parking and to carry out the home delivery service, with access to and from Meadow Lane.

A new extraction system is proposed with the extraction duct, intake louvre and cold-room remotes located on the north side elevation of the ground floor of the building. The extraction equipment has been designed to ulitilise internal pathways to avoid large and unsightly flues. The extraction duct would be located some distance away from the nearest residential property with the covered access providing a barrier between the duct and the residential properties located on the first-floor above the unit. The specification of the extraction equipment is specific to the use as a Pizza Hut Delivery outlet.”

Planning History

Planning permission was granted last year to sub-divide the premises and convert the rear part of the ground-floor and first-floor into 2 no. 1-bedroom flats, together with a replacement shopfront for the reduced-size Class A2 unit (AWDM/1166/15 refers), but has not been implemented to date.

Advertisement consent has been granted for an internally illuminated fascia sign and internally illuminated projecting sign (AWDM/0328/16) submitted by the same applicant as the proposed change of use under consideration here.

Consultations:

WSCC: The Highway Authority has raised no objection subject to conditions relating to submission of a servicing management plan and agreement of temporary works during construction, commenting as follows:-

"The Pizza Hut delivery service will operate 7 days a week from 11am until 11pm. The car parking at the rear of the shop will provide parking for the delivery cars that will be used to transport the pizzas to their customers. This area will also be used for any service delivery vehicles for ingredients etc. that will occur.

Access to this service area is from Meadow Lane, an unclassified road providing access to the rear of the shops. Space for turning vehicles is available here and egress onto the public highway at North Road and can be achieved in forward gear. Visibility form Meadow Lane onto North Road is good.

Enforceable parking restrictions along the length of North Road are in place between the hours of 8am - 6pm with a waiting time of up to 1 hour, as such during the busiest delivery period from 6pm till 11pm there will be un-restricted parking available outside the shop, for customers and/or the delivery cars (in addition to the spaces to the rear)."

Southern Water: An informative is requested advising the applicant that a formal application for connection to the public sewerage system is required.

Adur and Worthing Councils: The Senior Environmental Health Officer has raised concern that the development will introduce a significant and fairly persistent noise source with regards to delivery vehicle movements to an area of car park that is currently only periodically used. Unless a noise assessment is submitted to demonstrate the likely impact of the development on existing and proposed dwellings in the vicinity, it is recommended that a time restriction of 1800 hrs is imposed on the use of the car park. If a noise assessment shows an observable adverse noise impact it would be recommended that planning permission be refused. It is noted that none of the other shops in the parade are likely to be open for evening business and therefore there should be sufficient parking on North Road for delivery vehicles.

It is also recommended that a sound insulation scheme is submitted to protect the existing residential property above the premises.

A condition is recommended requiring that the business closes for customer orders at 2300 hrs each evening and is vacated by 1200 Midnight.

There is no concern regarding the proposed extraction and position of the vents. However, as the system is shown running along the ceiling of the premises its effects will need to be taken into consideration as part of the required sound insulation scheme.

Representations

5 representations have been received from the occupiers of 26, 32 North Road, Flat 6 38 North Road, 7 Orme Close, 7 North Farm Court, Lancing:-

- Use of cars/mopeds in conditions with the food outlet would create parking problems as there would be nowhere to park except in the existing parking bays, on pavement or in the roadway. There is currently problems with the positon of the island and the bus stop along with the Post Office sorting traffic which would be increased by the proposed change of use.
- The availability of free on-street parking is very important to the business of the neighbouring uniform retail shop, particularly as many customers travel 5-10 miles to buy a uniform and find the fact that there is readily available 1 hour free parking a big help.
- There are a number of empty shops up and down the high street that would be better suited for the use of a hot food takeaway along with the associated traffic.
- There are enough hot food take-away establishments in Lancing.
- Concerned that the noises and smells from the proposed extraction and air-conditioning units will impact on nearby sitting room and bedroom windows.
- Concerned about increased noise from business and traffic.
- There are already parking problems in the area and disputes are ongoing.
- When purchasing the flat [the residential flat occupier] was told that the ground-floor would be converted into offices.
- It is queried what provision has been made for the delivery vehicles to park, concerned that waiting vehicles will block the road or mount the pavement. On the other hand use of the rear service road may cause obstruction and nuisance for residents of Meadow Lane and Flats 1-6, 38 North Road especially during the evening. There is nowhere to park or even stop.
- The located is completed unsuited to this kind of operation. The extraction system venting heat and cooking smells would vent into a confined space above the narrow public access where exhaust could build-up. It is queried whether it should in fact be vented at high level to be effective. Large commercial extractors will no doubt cause serious disturbance for the flat occupiers who have been used to the relative quiet of the former bank which closed 1630 weekdays and closed weekends.
- Lancing doesn't need any more takeaways. We need to help this generations and the next by lowering rents and helping smaller independent businesses. Lancing deserves more variety – where is the Greengrocer? Clothes shops? Gift shops?

- Motorbikes used for deliveries will be continually going up and down the high street making noise affects residents living on the high street and above and is unjustified. Don't fall for a big name applying to come to Lancing as an excuse, we need more variety not more food shops.

Relevant Planning Policies

Saved Local Plan policies (ADC 1996): AG1, AP7, AS1, AE5, AE6
Proposed Submission Adur Local Plan (2016): 9, 15, 28
Lancing Village Vision (2012)
National Planning Policy Framework (CLG 2012)
National Planning Practice Guidance
WSCC Parking Standards and Transport Contributions Methodology (2003)

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) that provides the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; and,

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

The application premises is subject to saved Local Plan policy AS1 which allows development for shopping (Class A1) and food and drink purposes (Class A3) subject to there being (amongst other things) no loss of residential accommodation at upper floor, no loss of amenity to nearby residents and providing on-site car parking arrangements are satisfactory. It is worthy of note that the policy wording pre-dates the sub-division of the former A3 Use Class in 2005 into Class A3 (restaurants and cafes), Class A4 (drinking establishments) and Class A5 (hot food takeaways). It states that development which involves the loss of existing shopping provision (Use Classes A1 and A3) will not be permitted if the proposal is likely to detract from the character and vitality of the area.

The proposal would not result in the loss of an A1 or A3 use and consequently there is no conflict with the adopted Local Plan policy.

Lancing Village Vision does not form part of the Development Plan or have the status as a Supplementary Planning Document. However, it has been accepted in appeal decisions elsewhere in Lancing as a material consideration in the determination of planning applications, albeit of limited weight. The site is within the area identified as forming the 'Village Heart' where the vision is to strengthen and focus town centre uses (including Classes A1, A2 and A3) to ensure that it becomes 'rich with activity'. The Vision seeks to resist changes of use to hot food takeaways (Class A5) in

order to avoid displacing town centre uses that play a vital role in enlivening the 'Village Heart'.

Policy 9 of the Proposed Submission Adur Local Plan (2016) builds on the Lancing Vision and identifies primary and secondary shopping frontages in Lancing town centre with a view to controlling development to ensure that appropriate town centre uses are retained and improved so that the shopping centre continues to meet the needs of residents. The site is located within the identified 'primary frontage' which seeks to resist non retail uses including hot food takeaways (Class A5). This policy approach is consistent with the NPPF (paragraph 23) which states that planning policies should be positive, promote competitive town centre environments and set out policies for the management of growth, including defining the extent of town centres and primary shopping frontages and setting policies that make clear which uses will be permitted in such locations.

However, of particular relevance here is the presumption in favour of sustainable development which the NPPF identifies as the 'golden thread' running through plan-making and decision-making. This means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or out-of-date, granting permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF (paragraph 14).

The proposed development does not conflict with adopted Development Plan policy although it could reasonably be argued that policy AS1 is out-of-date in this context. The former Bank premises have been vacant for nearly 2 years (since June 2014). The applicant has stated that the proposed development will create an estimated 10 full-time staff positions and 15 part-time positions. The short parade in which the site is located comprises of 3 no. class A1 uses and 3 no. class A2 uses (including the former Bank premises). The proposed development would not displace an existing class A1 use. Consequently, having regard to the significant weight within the NPPF placed on the need to support economic growth (paragraph 19) it is considered the benefits of re-occupying this vacant unit will outweigh the potential harm resulting from the conflict with the emerging Local Plan policy, which at present carries comparatively little weight as a material consideration.

Residential Amenity

The nearest residential occupiers are those located on the first-floor above the parade of shops (Flats1-6, 38 North Road) and the terraced houses 1-5 Meadow Lane to the east which adjoin the rear of the car park and service road (which runs southwards from the car park linking to Meadow Lane). Consideration must also be given to the effect of the proposals on the living conditions of the prospective future occupiers of the 2 no. 1-bedroom flats permitted within the ground and first-floor rear part of the former bank premises.

The proposed takeaway use would generate activity throughout the times it is open for business. The applicant has been very clear that it is anticipated 80% of total sales will be via home delivery services. However, during the day most activity will likely be from customer footfall. The busiest time for the home delivery service will be after 1700 hrs. It is proposed that that the 2 allocated parking spaces in the rear car park would be used for staff parking and the home delivery service. During the less active period of the day (i.e. up to 1700 hrs) it is stated that only one vehicle would be required for the delivery service. The daytime opening hours of the proposed use would coincide with the opening hours of surrounding retail premises and it considered noise and activity associated with delivery personnel coming and going to and from the rear car park and vehicle movements to and from the site would have little effect on the amenities of either existing or future neighbouring residential occupiers having regard to the town centre location and ambient noise levels.

However, the Council's Environmental Health Officer has expressed concern that as background noise levels drop activity generated by the delivery element of the proposals is likely to become more discernible and potentially disturbing particularly as this will coincide with the busiest period of activity for the home delivery element of the proposals. Consequently the Environmental Health Officer advises that no use of the rear car park by customer delivery vehicles should take place after 1800 hrs in order to safeguard the amenities of nearby residents from the disturbing effects of vehicle noise and associated activity. The applicant has indicated they would be willing to accept a condition to this effect as the public parking spaces in North Road become free around this time allowing the customer delivery vehicles to park on-street.

Even with a condition in place limiting the use of the rear car park, those residents occupying the first-floor flats above the shopping parade will likely be aware of the comings and goings of customers and service delivery personnel and vehicle movements along North Road. However, there is an argument that a degree of activity associated with the operation of a vibrant evening economy is inevitable in a town centre location such as this. The Environmental Health Officer recommends a condition requiring the last customer order to be at 2300 hrs with all activity to cease at the premises by 12 Midnight.

The application submission is accompanied by details of the proposed extraction and ventilation system designed specifically for Pizza Hut to suit the type of cooking to be undertaken on the premises. Externally this will consist of an air in-take grille (750mm x 450mm), air output grille (750mmx 450mm) and 2 no. air condensing units sited on the north elevation within the void formed by the 'covered way'. The submitted information includes details of extraction fans, odour control and silencers to which the Environmental Health Officer has raised no concerns in terms of its efficacy in dealing with smells and cooking odours or noise generation subject to the installation of a sound insulation scheme between the proposed takeaway and the first-floor flat(s) directly above to protect those residential occupier(s) from noise disturbance both from activity and mechanical plant installed at ceiling level.

Visual Amenity

The submitted drawings show the former (double-width) bank frontage sub-divided into 2 parts comprising separate public and staff entrances. The public shopfront entrance will have similar proportions to the existing units in the parade but with no stall-riser, consisting of a large floor-to-ceiling shop window and glazed door on the left-hand side. The staff entrance (for customer home deliveries) is narrower, consisting of 2 vertically-proportioned floor-to-ceiling windows with a glazed door to the left-hand side, similar to the public shopfront. The fascia is shown spanning both elements of the shopfront, as existing. No details of the external finishes of the proposed shopfront have been submitted. Other shopfronts in this parade typically consist of modern metal frames with the individual units separated by a simple white-painted rendered column. A similar modern construction would not be out-of-place here. However, precise details of the proposed external materials and finishes of the shopfronts should be agreed, including the nature of any opaque treatments to be applied to shop windows (specifically the staff entrance shopfront). This could be dealt with as a condition of planning permission.

Parking and Highway Safety

The submitted plan shows 4 parking spaces within the car park at the rear of which 2 are to be allocated to the proposed takeaway outlet. The submission states that the car park will be used for staff parking and the home delivery services. During the quieter daytime business hours only 1 customer delivery vehicle will be operational and will undertake multiple 'drop-offs' when carrying out the deliveries to customer. The supporting statementing states that: "*There is sufficient space provided in the rear car park and service yard, accessed from Meadow Lane, for private/staff parking and activities associated with the home delivery service. By providing the home delivery service, this will reduce the amount of individuals which travel to the site in vehicles, with potentially only those in the immediate local likely to collect their food in person, to take back to their homes.*"

The Highway Authority has not raised any objection to the proposal on highway safety or capacity grounds. The adopted maximum car parking standard is 1 space per 30sqm for the existing Class A2 floor area equating to 4.4 spaces. The maximum parking standard is 1 space per 5sqm of public area for Class A3 uses, which in the case of the proposed hot food takeaway equates to 3.6 spaces.[There is no separate standard for Class A5 uses as the adopted WSCC Parking Standards and Transport Contributions Methodology pre-dates the sub-division of the A3 Use Class in 2005.]

The Highway Authority has been re-consulted on the basis of the Environmental Health Officer's stipulation that the rear car park should not be used for customer delivery services after 18.00 hrs and no objection has been raised on highway safety or capacity grounds taking into consideration that the waiting restrictions in North Road do not apply after 18.00 hrs and capacity will be freed-up during the evening when shops are closed.

Recommendation

APPROVE subject to conditions

1. Standard 3 year time limit
2. Approved plans
3. Agree shopfront materials and external finishes (including any vinyls or treatment to opaque the shop windows) or prior to commencement
4. Agree and implement a sound insulation scheme between the premises and the flat(s) directly above prior to commencement
5. Hours of use restricted to between 09.00 and 23.00 hrs with no customer order taken after 23.00hrs and all activity to cease on the premises by 12 Midnight
6. The rear car park shall not be used for customer delivery services or any waiting vehicles in connection with the customer delivery service after 18.00 hrs on any day
7. Implement cycle storage shown on submitted plan prior to first commencement and retain thereafter
8. No external plant other than as shown on the approved plan(s)
9. Agree and implement a Servicing Management Plan prior to commencement. This shall set out the arrangements for the loading and unloading of deliveries, in terms of location and frequency, and set out arrangements for the collection of refuse. The use shall be carried out only in accordance with the approved Plan.

Informative

1. The applicant is advised of the requirement to enter into early discussions with and obtain the necessary licenses from the Highway Authority to cover any temporary construction related works that will obstruct or affect the normal operation of the public highway prior to any works commencing. These temporary works may include, the placing of skips or other materials within the highway, the temporary closure of on-street parking bays, the imposition of temporary parking restrictions requiring a Temporary Traffic Regulation Order, the erection of hoarding or scaffolding within the limits of the highway, the provision of cranes over-sailing the highway.

2. Southern Water requires a formal application for connection to the public sewerage system.

26th May 2016