Development Control – Delegated Officer Report

Application Number: ADC/0010/11 **Recommendation – Refuse Application**

Site: **72 High Street Shoreham-by-Sea West Sussex BN43 5DB**

Proposal: **Extension of opening hours to close at 11.30pm Sunday-Thursday and 12.45am Friday and Saturday (instead of 11pm as previously permitted) (Variation of condition 3 of SU/204/94 and condition 1 of SU/71/98)**

The Application

The existing premises comprises an existing hot food take away and delivery fronting onto Shoreham High Street. The site is set along a parade of shops, cafes, restaurants and drinking establishments and is located within Shoreham-by-Sea Town Centre and Conservation Area.

The site has an extensive history relating to the use of the premises as a take-away, home delivery and hours of operation.

Permission was originally granted in 1995 (SU/204/94) for a restaurant for consumption of food on the premises only and with opening hours restricted to 9am to 11pm. A Breach of Condition Notice was served by Council is 1996 due to non-compliance with trading hour restrictions. This Notice remains extant.

The approval was varied in 1996 (SU/159/95 & SU/49/97) so as to allow home delivery by operators of the business and further varied in 1998 (SU/71/98) in order to extend the business to incorporate a hot food take away facility from the premises.

Permission was sought in 2000 (SU/85/00) to extend the permitted hours of operation until 2:30am at weekends and midnight weekdays, in 2009 (ADC/0376/09) for 24 hour operation and again in 2009 (ADC/0458/09) so as to remain open until 1:30am at weekends and midnight weekdays. These three (3) applications were all refused permission due to the impact of extended trading hours upon the amenity of the occupants of nearby residential properties by reason of noise and disturbance at unsocial hours.

The application seeks to vary the existing premises opening times so as to allow trading between 9am and 11:30pm Sundays to Thursdays and 9am and 12:45am on Fridays and Saturdays. The existing permitted trading hours remain as per those originally approved – namely 9am until 11pm seven (7) days a week.

Consultations and Representations

Environmental Health: Object to the application on the ground of protecting the local and residential amenity.

Adur District Conservation Advisory Group: Object, on no days should the premises be open after 11pm.

Third parties: Seven (7) letters of objection have been received including one (1) from the Shoreham Society. The majority of submissions are from residents of West Street and main grounds for objection are noise and disturbance late at night, anti-social behaviour and litter.

Relevant Planning Policies and Guidance

Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AS1
PPS 1 'Delivering Sustainable Development' (ODPM 2005)
PPS4 'Planning for Sustainable Economic Growth' (DCLG 2009)
PPG24 'Planning and Noise' (DOE 1994)

Planning Assessment

Policy and principle

The site is within the Shoreham High Street shopping area and is subject to the provisions of (saved) policy AS1 of the Local Plan. This requires (inter alia) that shopping, food and drink uses will be permitted subject to no loss of amenity to nearby residents.

PPG24 states that food and 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 Local Planning Authorities 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.

The subject site has an extensive history of attempts to secure extended opening hours beyond those imposed on the original planning permission of this use including initial breaches of specified trading hours and Council's issue of a Breach of Condition Notice in 1996. Such applications have previously been declined by Council due to concerns over noise and disturbance later at night in close proximity to residential uses in the vicinity.

Residential amenity

The premises is located on the Shoreham High Street which is characterised by a mixture of shops, cafes, restaurants and public houses along ground

floors with office and residential uses prevailing over upper floors. Away from the High Street, but within close proximity, residential uses are prevalent.

Although the area is increasingly characterised by uses which trade later into the evening – typically later opening convenience stores, movie rentals, public houses, restaurants and take aways – the majority of these activities are generally approaching closing or already closed by 10pm. Whilst Shoreham town centre and High Street does feature an element of a later evening economy, the area remains a modest sized town centre area serving the local community and is not comparable to larger centres such as Brighton or Worthing.

Residential uses are heavily prevalent in the area, generally in the forms of terraced houses with direct street access to the north along West Street, Ship Street and John Street and flats above shops and purpose built units along the High Street and to the west and immediate south.

Given the relatively low key nature of Shoreham town centre's late night activity and its juxtaposition with residential uses it is not considered that late night trading beyond 11pm is appropriate. Whilst late night uses are catered for until 11pm, given the incumbent noise, general activity and disturbance that can be created in and around such venues it is not considered that further extension of trading hours after 11pm can be supported.

While residents in close proximity to town centre uses must accept a degree of intrusion as a trade off for the convenience of proximity, it is not considered that for a town centre of the scale and nature of Shoreham that this should extend to disturbance and intrusion later on into the evening and early morning.

The proponent has made no submissions in support of the application to address any form of management, control or mitigation for any potential adverse impacts created by late night trading. Conversely submissions by neighbours, amenity groups and Council's Environmental Health Officer suggest that noticeable activity and disturbance occurs beyond 11pm at present. Whilst there is no demonstrable evidence to indicate this is presently associated with or caused by the use at 72 High Street, it is nevertheless considered that an extension to existing opening hours of any premises within the vicinity creates the propensity for further intrusion later at night.

As such the application is recommended for refusal due to unacceptable noise and disturbance from customers to the occupiers of residential accommodation.

Highway safety and parking

The premises does not feature any off-street parking provision and is located within an area of control parking. Notwithstanding the above the extended opening hours would not generate additional parking demand during peak times with additional parking and traffic generation created at later hours

when demand is at its lowest. Nevertheless this highlights the lack of other activity in the area when the subject site is seeking to continue trading.

Other matters

In other regards the proposal is not considered to give cause for objection.

Recommendation:

Refuse permission for the following reason:

1. The proposed extended opening hours are likely to result in unacceptable noise and disturbance from customers to the occupiers of residential accommodation situated in close proximity to the site, causing interference with living conditions by reason of noise and disturbance at unsocial hours and thereby conflicting with policies AG1 and AS1 of the Adur District Local Plan and the provision of PPG24 'Planning and Noise'.

Case Officer Nick Bowden Date