exp 31/8

Development Control – Delegated Officer Report

Application Number: ADC/0228/10 Recommendation – APPROVE

Site: **14 Crabtree Arcade, Grand Avenue, Lancing BN15 9PR**

Proposal: **Change of use from shop (Class A1) to hot food take-away (Class A5) with rear extract duct**

The Application

The premises lie within a short row of 3 shops/commercial units fronting Grand Avenue, attached to the western end of the Crabtree Lane shopping parade. There are flats on the first floor, one above each shop. The shops comprise a ticket agency (No.15) and double-glazing showroom (No.13) with a hairdressers on the corner. There is a dental surgery with dwelling opposite.

The rear curtilage comprises a small yard with untidy fencing, etc backing onto a rear access lane with the rear garden of the house at No.1 Second Avenue on its opposite side and other rear gardens beyond to the north east.

The application is to change the use from a shop (A1) to a hot food take-away (A5), indicated to be a fish and chip shop in supplementary details. A floor plan has been submitted which shows the front half of the ground floor as the food service area with counter (with deep fat fryer beneath the counter) and the rear half as the kitchen (food storage and preparation, including a potato chipper and microwave) with WC in the existing small rear projection. External changes are shown to the rear elevation comprising a rear door and an extract duct flue. The shopfront will remain as existing.

The rear curtilage is shown as a parking area for one car with cycle store and bins on its north side.

The details submitted by installers (Sussex Catering Equipment Services Ltd) state that a 3-pan fish frying range is proposed with primary grease filters mounted on the rear of each pan's manifold; the filters are removable and need to be cleaned twice weekly. 2 exhaust ducts (0.165m diameter) exit from beneath the range to a central below ground sump where waste oil will be collected. From the sump the ducting becomes a single 0.28m diameter duct connecting vertically to a 3-stage carbon filter (grease filter, pre-filter and carbon filter). The duct will turn 90 degrees from the filter box into a single centrifugal fan unit connected with an anti-vibration collar, the fan having a noise level of 34dBA at 2m and moving 30 air changes per hour. From the fan unit the duct will rise vertically and emerging through the roof of the single-storey rear lean-to and discharging 1m above eaves (NB. the revised plan shows it 1.2m above eaves with a diameter of 0.45m).

Consultations and Representations

West Sussex County Council: Given the nature of the proposed use and the potential problems at other locations, believes the applicant should continue to be pressed for customer numbers, etc, as detriment to local amenity, inappropriate or double parking, etc needs to be avoided.

Adur District Council: The EHO has no objection subject to restricting the hours of use to those proposed and requiring proper installation and maintenance of the extract system including anti-vibration mounts and flexible coupling for the fan motor.

Lancing Parish Council: No comments received.

Third Parties: 6 letters/emails have been received. These are from residents of the flats above No's 13 & 15 Crabtree Arcade and No.1A, 4 & 36 Grand Avenue, and from the shop at No.24 Crabtree Lane.

- far too many take-aways in the area already, including ones in the immediate vicinity (Pizza Shack, Uncle Sams, Chinese, Kebab/burger and 2 Indian), and nearly 30 in the whole of Lancing; instead a convenience store or a clothes shop is what is needed.
- noise disturbance to flats above the shops and to the dwellings opposite and to the north, especially in the evenings and night (one objector being concerned about the effect on her baby);
- smell; owing to SW prevailing winds these fumes will blow into gardens in Grand Avenue and Second Avenue;
- more mess, litter and rubbish, adding to the problem already caused by customers of the other take-aways;
- Grand Avenue is a mainly residential road with just 4 commercial units at its southern end, all closing by 5.30pm, and a takeaway would be detrimental.
- increase in traffic and car parking; will cause risk to pedestrians especially young children going to recreation ground on south side of Crabtree Lane; vehicles visiting the shops already abuse the double yellow lines at the junction of Grand Ave with Crabtree Lane contributing to accidents at the junction, including pedestrian casualties that hace occurred within the past year.
- no access at the back, questioning where rubbish would be put.

Relevant Planning Policies and Guidance

Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AS1, AE5-6
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 at the western end of a long shopping parade which is included just within the northern edge of Lancing town centre as defined in the Local Plan. It is subject to policy AS1 of the Local Plan which states that permission will be granted for shopping and food & drink purposes within Use Classes A1 and A3 subject to no loss of amenity to nearby residents, satisfactory access and parking, and appropriate scale and design. NB. Class A3 'food and drink' was split into Classes A3 'restaurants and cafes', A4 'drinking establishments' and A5 'hot food takeaways' in 2005.

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

The proposed use as a takeaway is a type of retail service and is acceptable in principle under the above policy AS1.

There are 6 other takeaways within this long parade of shops at No's 14 (Hassan), 26 (The Best Kebab & Burger), 30 (Naima), 38 (Golden Phoenix), 70 (Uncle Sams) and 78 (Pizza Shack, currently not trading). 2 of these are in the same block as the proposal. However, competition is not a relevant planning consideration and the Local Plan policy contains no limit on numbers.

The main concerns are the effects on the residential amenities of the locality from cooking smells and noise disturbance, and on highway safety.

Residential Amenity - noise

As regards noise from customers and activity, the main concern is in the evening period when background noise levels are lower. Disturbance from a takeaway is normally considerably greater than with a restaurant owing to the greater frequency of customers arriving and departing. However, it is considered that the impact on nearby residential properties can be kept to an acceptable level if the opening hours are restricted to prevent early morning and late evening opening when background noise levels are much lower. This was the conclusion of the Inspector in the case of the appeal at No.70 Uncle Sams (L/16/95).

The application form states that opening hours are proposed to be 11am-10.30pm Monday to Saturday and 12mid-day to 10pm on Sundays. In the case of both the nearby take-ways, the hours approved (by variation of their original permissions) are 8.30am-10pm Sun-Thurs and 10.30pm Fri-Sat. It is considered that the same hours should be imposed in the present case, particularly given the nearby dwellings.

Residential Amenity - odour

It is evident that the issue of cooking odour can be a difficult one to resolve and it is an important issue because of the residential flats in very close proximity. However, other cases that have been decided on appeal show that refusal of an application for takeaway use on grounds of odour is extremely unlikely to be upheld, the view being taken that it can be overcome by a suitable extract system, as in the appeal case of L/16/95 referred to above.

The system proposed in this case is unusual in that it is partially underground and the Council's EHO had some concerns about access and cleaning. However, having checked with other EHOs elsewhere who have found such systems acceptable, he now raises no objection.

Provision of an external extract duct to roof level is visually detrimental but the proposal in this case is quite small, much smaller than some others at the rear of the Crabtree Lane shops. It would not be so adverse as to justify refusal in this case.

Access and parking

WSCC, as the local highway authority, have stated that they believe the applicant should continue to be pressed for customer numbers, etc, as detriment to local amenity, inappropriate or double parking, etc needs to be avoided. The applicant's agent has been asked for such estimates but none have been received and it is difficult to see how any accurate figures could be provided in advance of the premises opening. He has stated that the rear parking would be for staff and, due to the nature of the site, customers with cars would park on the highway as they would for any other premises in this parade. Given the proximity of an extensive residential area, it is to be hoped that many customers would arrive on foot.

The proposal is unlikely to generate more traffic than many types of A1 shop use and it would be extremely difficult to substantiate refusal. Although the site is close to a road junction, Grand Avenue is wide and with parking space available on both sides (other than for the double yellow lines which stretch 17m north of the junction on the east side and 12m on the west side).

Recommendation

APPROVE for the reason:-

The proposal lies within an area identified for shopping and related uses including restaurants, cafes and takeaways. It would not harm the vitality and viability of this neighbourhood shopping parade or cause unacceptable detriment to highway safety and, subject to provision of a suitable extract system and restriction of hours of opening, would not have an unacceptable effect on the residential amenities of nearby residential accommodation. It

would consequently not conflict with the relevant policies of the Adur District Local Plan (AG1, AS1).

Subject to:-

1. C1Ci
2. C14L .....of 8.30am-10pm on Sundays to Thursdays and 8.30am to 10.30pm on Fridays and Saturdays and there .....cease at the premises within 30 minutes of these closing times
3. C14O .....commenced until the means..... has been provided in accordance with the details contained in the e-mail of 05 July 2010 from John Coleman of Sussex Catering Equipment Services Ltd and the revised plans referred to in condition 04 below. This shall include the provision of anti-vibration mounts and a flexible coupling for the fan motor.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:-
   Drawing No's R-11 rev.A; R-21 rev.A and R-31 rev.A all date stamped received on 12 August 2010.
   R. In the interests of residential amenity and for the avoidance of doubt.

Case Officer: Keith Morgan Date: 27 August 2010