Development Control – Delegated Officer Report

Application Number: AWDM/1815/19 **Recommendation REFUSE**

Site: **374 Brighton Road, Shoreham-by-Sea, BN43 6RE**

Proposal: **Change of use from Retail (A1) to Hot Food Takeaway (A5) with extraction flue to north elevation**

Date of site visit: 18.12.2019

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings

The application site is a 2 ½ storey terrace property with commercial on the ground floor and appears to be residential above. The ground floor of the neighbouring properties within the terrace also have commercial on the ground floor and also appear residential above.

To the adjoining south is a 3 ½ storey property which appears to be in residential use.

To the north of the terrace is an entrance drive leading to Bramber Construction Company which has its own car parking area. To the east of this car park is a four storey block of flats.

Directly to the north of the entrance drive, is the 'Duke of Wellington' public house.

The road directly to the front of the terrace is the main A259 Worthing to Brighton road, which has limited parking available which can be utilized by the commercial uses.

The opposite side of the road is car sales and car related businesses together with other commercial uses. Plus there are new build blocks of residential flats.

No.'s 372 – 380 Brighton Road are protected by the fact that these properties are within a Local Shopping Parade.

The site is within Tidal Flood Zone 3.

Proposal

Planning permission is sought to change the use of the ground floor from A1 retail to A5 hot food takeaway (for the sale of hot food for consumption off the premises).

Relevant Planning History:

SU/142/02/TP Change of use from class A1 shop to class A3 hot food takeaway (376 Brighton Road) **Approved 23.08.2002**

AWDM/0517/19 Demolition of existing building and construction of four-storey building comprising 2no. 2 bedroom flats and 2no. 1 bedroom flats, with two storey rear extension, refuse and cycle storage, pedestrian access and external amenity area and construction management plan (386 Brighton Road) **Approved 10.07.2019**

Consultations:

Sussex Police: From a crime prevention viewpoint no major concerns regarding this application.

WSCC Highways:
"Content
No vehicular access or parking is associated with this property, which is the existing arrangement. An inspection of collision data provided to WSCC by Sussex Police from a period of the last 5 years reveals no recorded injury accidents attributed to road layout within the vicinity of the site. Therefore, there is no evidence to suggest the nearby road network is operating unsafely or that the proposal would exacerbate an existing safety concern. The LHA does not anticipate a significant intensification of material movements over those already occurring at the site.

The LHA advises that vehicular parking may have to occur on street. Whilst on-street parking is limited in the vicinity, there are comprehensive parking restrictions in place prohibiting vehicles from parking in places that would be detriment to highway safety. The LHA does not anticipate that highway safety will be detrimentally affected through the nil car parking provision. The planning authority may wish to consider the potential impacts on on-street parking from an amenity point of view.

The LHA appreciates that site is sustainably located, being within walking distance of public transport links. Regular bus connections are available from Brighton Road, with regular services between Brighton and Littlehampton available. Shoreham-by-Sea Train Station is an approximate six-minute walk from the site.

Conclusion
The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National

Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal."

Environmental Health (Environmental Protection):

"The following comments are made in relation to this application.

1. *The configuration of the extraction system is not clear. The document from Purified Air dated 18.11.19 refers to ESP and UV odour treatment, however, the document from KA Food Services dated 11.11.19 refers to other odour abatement equipment alongside that specified by Purified Air. This needs to be clarified, preferably with a schematic diagram showing the whole system from cooker hood to point of discharge, with each component marked. This must include fans and silencers.*
2. *The extract height is 1m above the nearest openable window (which I presume is residential). Consideration should be given to extending the flue height – to reduce the likelihood of downdraughts taking residual odours into this room, however the make-up of the extraction system will influence the final acceptable height.*
3. *Data sheets for the fans and silencers have been supplied, however it remains unclear what the total sound pressure level will be at the point of discharge (end of the flue) or from the fan. It is unclear where the fans will be situated within the system (see point 1 above). The total noise from the system at the full speed must be provided.*
4. *We will be requesting a high standard of sound insulation between the ground and first floor.*

Until the above points have been addressed I cannot provide full comments on the acceptability of the proposals or the impact of odour and noise on nearby residential amenity."

Representations: Letter of objection from 26 Pashley Court

- The proposed extraction flue to the rear of my property
- Increased traffic and parking problems
- The noise and smell of a greasy extractor going on all day, into the evening and possibly late at night
- Extractor fan will prevent me from having windows open
- Takeaways should be on the high street and not in residential areas

Relevant Planning Policies

Adur Local Plan policies: 1, 15, 27, 28, 34
National Planning Policy Framework 2019
National Planning Practice Guidance

Planning Assessment

Principle
The application is applying for a change of use from A1 retail to an A5 takeaway use, which is a use for the sale of hot food for consumption off the premises.

No.'s 372 – 380 are within a designated local shopping parade, and policy 27 of the Adur Local Plan makes it clear that in these areas a predominant shopping use (as defined in the Town and Country Planning (Use Classes) Order 1987 as amended) on ground floor premises will be retained. Where proposals would result in there no longer being a predominant shopping use, this will only be acceptable where it can be demonstrated that retail is no longer a viable use in that unit, particularly where it has remained vacant for a long period (normally a minimum of one year) and that reasonable attempts have been made to market it for retail purposes. None has been submitted with this application which, if permitted, would result in A1 uses being in a minority, and a run of three A3/A5 uses.

The proposed use would therefore be contrary to Policy 27.

Parking

The site is located on the north side of Brighton Road, and is within a terrace comprising a mix of uses with small shopping/commercial. On the east side of the terrace is a builder's yard and a public house, whilst on the west side of the terrace are residential uses. The terrace fronts Brighton Road, which is the A259 Worthing to Brighton coastal road, but is set back from the main road which allows parking to the front of the properties within the terrace. However, parking within this area is extremely difficult because of the busy road, and because the parking spaces available are often full and therefore it is difficult to gain access to a parking space. A specific car parking area exists close to the application, but this is a private parking area, unavailable for short term customer parking. There are town centre car parks within a reasonable walking distance.

It is noted that WSCC Highway does not raise a highway objection to the parking on the street despite it being limited in the vicinity. They note that there are comprehensive parking restrictions in place prohibiting vehicles from parking in places that would be detrimental to highway safety. They advise the local planning authority to take account of the potential impacts of on-street parking from an amenity point of view.

In view of the lack of a highway objection it is considered that a reason for refusal on highway/parking grounds cannot be sustained. While there may be an increase in parking pressure locally and a subsequent impact on local amenity, the impact is not considered to be sufficiently severe in this case.

Residential amenity

The use is described as being A5 takeaway although no end user has been identified. A new flue is proposed at the rear and the EHO has requested more information on noise and smells plus a possible increase in its height. As it stands, it is unclear whether there would be an adverse impact on residential amenity.

Additional information and amendments have not been sought in this case, however, due to the policy objection to the principle of such a use.

The hours of opening are specified as being 11am -11pm every day, which is as late as the café use at No.372 is permitted to open. There is no concern with these hours from an amenity point of view.

Recommendation

REFUSE

1. The proposal would result in the loss of an A1 shopping use within a local shopping parade as defined by the Adur Local Plan, meaning that there would no longer be a predominant shopping use in ground floor premises within the parade. The application has failed to demonstrate that retail is no longer a viable use within the unit and the proposal is subsequently contrary to Policy 27 of the Adur Local Plan.
2. It has not been adequately demonstrated that the proposed extraction flue would not cause harm to the residential amenities of neighbouring occupiers through noise and smell. The proposal is therefore contrary to Policy 34 of the Adur Local Plan

Informative

1. Refused without discussion

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

Case Officer: Eve Hearsey Date: 14.01.2020

Authorised by: Peter Barnett Date: 14 January 2020