Application Number: ADC/0456/07 Recommendation – APPROVE

Site: **46 High Street, Shoreham-by-Sea BN43 5DA**

Proposal: **Change of use from Use Class A1 shop to A5 hot food takeaway with erection of extract duct to rear elevation**

The Application

The application premises comprise a small shop (61sqm) located on the north side of High Street. It is currently vacant and the last occupier was a greetings card retailer. The upper two floors are in separate use as a two-bedroom maisonette.

Permission is sought for a change of use to a hot food takeaway (A5) for 'Uncle Sams', a chain of hamburger restaurants. The applicant states that the premises are vacant but does not state for how long.

The premises were given approval to change from a shop to a building society in 1981 (SU/139/81) and subsequently changed use back to retail in 1996 (SU/117/96). During the period that it was building society an ATM was installed in the front window (SU/78/85).

To the east of the premises is 'Boots the Chemist' (No's 40–44) with the Marlipins Public House and the Marlipins Museum beyond. To the west are other retails premises, an opticians and a baker's shop. Opposite, on the southern side of the road, is a block containing three restaurants, Nia, Tosca and Prezzo.

Consultations and Representations

County Transport Planning Services: No objection. Although there are existing traffic issues in the High Street and the proposed takeaway would be likely to attract additional, albeit short-term, demand for on-street car parking, the existing lay-bys along the High Street would facilitate car parking. They point out that an appeal in 2003 at No.69 High Street for the provision of a takeaway, to which they objected on grounds of insufficient and safe parking, was allowed, the Inspector concluding that safety and free flow of traffic would not be unacceptably affected.

Director of Services: The Environmental Health Officer has no objection but requests that the kitchen extract system be built to accord with DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' with details of the system being required to be provided and agreed in writing by the planning authority before installation.

Adur District Conservation Advisory Group: Comment that yet another fast food outlet would change for ever the trading character of the High Street and be most detrimental to the streetscene and contrary to the ADC guidelines.

County Planning Services: The Conservation architect has no objection, as the extract duct would not affect the streetscene but it should be painted.

Third Parties: 3 letters/e-mail and a petition of objection have been received. The petition is signed by 26 people but their grounds of objection are not stated.

The owners of No.46A High Street, the maisonette directly above the application premises, objects on grounds of unpleasant smells of frying oil, meat and onions which would waft into their home. The shared entrance way would result in food scraps, food wrappings and other rubbish being littered around and near the shared doorway which will affect access and security to the property above. They feel that the use of the premises as a hot food takeaway would cause a substantial and relentless level of noise pollution from cooking and patrons gathering outside the shop, and that the duct would result in strong cooking smells in the bedroom/office of their home. They conclude by stating that the proposals are contrary to policy AP7 of the Local Plan being close to residential homes.

The owner of No.8 John Street raises concerns about increased fire risk to their property which could spread to surrounding properties rapidly. They are equally concerned about the environmental health risk associated with the storage of food waste at the back of the premises which could lead to the build up of vermin and other public health risks. They feel that another take-away restaurant so close to John Street can only worsen the traffic problem with poorly and illegally parked cars. They are also concerned about the noise pollution that will be generated by the proposals, particularly regarding their rear bedrooms which overlook the proposed extraction system, which they also feel will be unsightly. They feel that the odours will permeate into their house due to the very close proximity of their property.

The owner of No.6 John Street wishes that fire risk from the take-away establishment and issues regarding parking of customer vehicles should be addressed and are the main reasons for them objecting.
[NB. the owners of No.46A High Street and No.6 John Street wish to speak at the Committee meeting]

Relevant Planning Policies and Guidance

Adopted West Sussex Structure Plan 2001-16 (WSCC 2004): LOC1, NE9, ERA1, CH4, DEV1, DEV4-5.
Adopted Adur District Local Plan 1993-2006 (ADC 1996): AG1, AP7, AB4, AB14, AS1, AT12-13.
The Adur Development Plan 'Submission Core Strategy' (ADC 2007): STC1, STC3, ENV10

PPS1 ' Delivering Sustainable Development' (ODPM 2005)
PPS6 ' Planning for Town Centres' (ODPM 2005)
PPG13 'Transport' (DTLR 2001)
PPG15 'Planning and the Historic Environment' (DoE 1994)
PPG24 'Planning and Noise' (DoE 1994)

Planning Assessment

Policies

The main concerns are the effects of the proposal on the vitality and viability of the shopping centre, on the residential amenities of living accommodation in the vicinity, on the character of the Conservation Area, plus access and parking considerations.

Structure Plan policy NE9 states that permission should be granted for development within existing town centres which reinforces and helps them to adapt their vital role in acting as focus for a wide range of activities including retailing, leisure, cultural, business and residential uses. CH4 requires development with Conservation Areas to preserve, and where possible, enhance the area.

The premises are within Shoreham town centre where Local Plan policy AS1 specifically applies. AS1 states that permission will be granted for shopping and food and drink purposes falling within use classes A1 and A3 subject to compliance with criteria including no loss of amenity to nearby residents, and on-site parking and access arrangements being acceptable. It also 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". Policy AB14 states that every opportunity will be taken to maintain and enhance the economic vitality of town centres and new shopping development will be encouraged but must be sympathetic to the location. AP7 states that, in the interests of minimising pollution, conditions will be imposed relating to industrial or other processes to control pollution and limit noise, etc, taking into account distance from dwellings and remedial measures, but that those uses likely to have unacceptable effects will be refused.

PPS6 'Planning for Town Centres' stresses the Government's objectives of promoting vital and viable town centres and states that development should be focussed in existing centres in order to strengthen, and where appropriate, regenerate them. Local Authorities should still take into account local issues and material considerations when assessing planning applications and these may include physical regeneration, employment, economic growth and social inclusion. PPG24 (Annex 3, para 20) however states that fast food activity often peaks a late hours and the attendant problems of noise made by customers in the vicinity should not be underestimated.

Owing to policy AS1, there is no objection to the principle of A3-A5 uses in the High Street NB. the Use Classes Order was significantly amended in 2005

and was subdivided so that Class A3 is now 'restaurants and cafes', Class A4 is 'drinking establishments' and Class A5 is 'hot food takeaways'.

Residential amenity

DEFRA have prepared a report entitled 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' which covers the effect of extract systems on their surrounding environment. Included are the following specific points that must be addressed in new commercial kitchens.

- Proprietors of commercial kitchens are under duty to ensure that the fire precautions meet the requirements of the 'Fire Precautions (Workplace) Regulations 1997.
- The discharge stack should discharge the extracted air not less than 1m above the roof ridge of any building within 20m of the building housing the commercial kitchen.
- For new premises covered by planning conditions restricting the impact of noise the system shall be designed to prevent an acoustic impact on the external environment and therefore harm to amenity.

The applicant has not supplied the details of the proposed extraction system, however they can be addressed by a condition as recommended by the Environmental Health Officer to cover the above points and to be agreed by the LPA. This would address the concerns of the residential properties above and to the rear regarding noise and odour from the extract system. The duct is shown to terminate below the ridge of the property which itself is higher than either of its attached neighbours and that of the residential property to the rear (No.8 John Street). The attached properties either side, the chemists at No. 40/44 and the opticians at No.48, do not have residential accommodation above them.

The concerns of the owners of the residential properties above and to the rear regarding the effect that the customers would have on levels of litter and the storage of food waste can be addressed with a condition requiring two litter bins, one inside the premises and one on the street. The back yard of the premises is large enough to adequately store trade refuse from the proposed take-away.

The effect of comings and goings through the shared lobby would have an increase in noise levels for the property above, but given the High Street location there would already be an element of noise from passing traffic and from patrons of the other establishments in the street. Although, with the introduction of licensing control, the Government has sought some variation in hours to avoid a concentration of persons leaving premises all at the same time, in this particular case, because of the existence of the maisonette directly above with its shared entrance, a condition requiring closing at 10.30pm is considered warranted.

Effect on shopping area

The block in which the premises are located (between Middle Street and John Street) can be regarded as a key frontage being at the heart of the shopping area. It currently has non-retail uses with the Marlipins Museum and public house at its eastern end and there are already a large number of food and drink premises in the High Street as a whole. However, the policies in the adopted Local Plan do not contain any numerical limit on the number of premises providing food and drink and AS1 specifically states that both shop and food & drink uses are acceptable.
Policy STC1 of the Adur Development Plan Submission Core Strategy states that the viability and vitality of Shoreham town centre will be enhanced through "ensuring the predominance of shops on key street frontages".

However, the front of the premises is only 4.5m in overall width, part of which is taken up by the ATM machine (1.4m). The entrance lobby to the premises is shared with the upper residential accommodation and is recessed from the shop front and would maintain the same appearance after any change of use. The lobby is 1.4m in width, which leaves the shopfront itself only 1.7m wide. On the basis that the shop front is such a small width, it is considered that the loss of the Class A1 retail use would not have a noticeable effect on the shopping frontage or vitality of this part of the High Street.

Highways issues

WSCC Highways have raised no objection on the grounds that the additional parking that would be attracted by the change of use would be short term and accommodated by on-street lay-bys along the High Street. An appeal was allowed at No.69 High Street for the use of the premises as a take-away restaurant (SU/161/02) which was fronted by double yellow lines in the road and a bus stop, on the grounds that it "would not harm the safe and free flow of traffic on the High Street and would not conflict with the development plan". The High Street itself is a highly sustainable location easily reached on foot and by public transport. There are six street-side lay-bys along the High Street, one being in front of the premises and it is considered that, although these lay-bys are in high demand, the proposed use would not add significantly to the overall level of customer parking or deliveries.

Visual amenity

The proposed duct would be at the rear of the premises. It would run up the rear wall, along the rear roof slope and terminate to the rear of the chimney stack. The duct itself would be out of view from the High Street, Middle Street, John Street and the parking areas off of these streets. It is therefore considered that it would preserve the appearance of the Conservation Area. The applicant has stated that the duct would be painted to match the render colour of the building itself which would help prevent the duct from appearing out of keeping for the residential properties in the vicinity from which it could be seen.

A separate application would be made for the shop signage at a later date.

Recommendation

APPROVE for the reason:-

The proposed development would preserve the character and appearance of the Conservation Area and can take place without resulting in unacceptable detriment to the amenities of neighbouring properties, the vitality or viability of the shopping centre and highway safety. It would consequently not conflict with the relevant policies of the Adur District Local Plan (AG1, AP7, AB4, AS1, AT12-13) and the adopted West Sussex Structure Plan 2001-16 (LOC1, NE9, CH1, CH4, ERA1, DEV1, DEV4-5).

Subject to:-

1. C1Ci (Standard time limit)
2. C14L (Opening hours of premises restricted to 8.30am -10.30pm with additional half hour for all activity to cease)
3. The front door of the premises and the door in the rear of the premises leading into the yard shall be kept closed and not propped open or left ajar at any time between the hours of 7pm and 8.30am.
4. C14O (Filtered and soundproofed odour extract system to be built in compliance with DEFRA's 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' to be approved and implemented) (amended)
5. C18J (Refuse bin provision details) (amended)
6. C12 Ei (External paint colour of duct to match that of the existing building) (amended)

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