Development Control – Delegated Officer Report

Application Number: AWDM/0195/13 **Recommendation – Approve**

Site: **4 Seadown Parade 16 Bowness Avenue Sompting West Sussex**

Proposal: **Change of use from retail (class A1) to hot food takeaway (class A5) with low-level extract flue at rear.**

Date of site visit: 19 March 2013

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application property comprises a mid-terrace ground-floor shop unit within a short parade of 9 shops with maisonettes above. The shop unit has been vacant since November 2011.

Permission is sought for a change of use from retail to hot food take-away (Class A5).The only external alteration would be the installation of a low-level flue on the rear elevation terminating approximately 4m above ground level. No details of the proposed future occupier or type of food outlet have been provided. The proposed hours of opening are 12.00-23.00 hrs (Monday to Saturday) and 12.00-22.30 hrs (Sunday and Bank/Public Holidays).

Evidence of marketing to support the current application has been provided as follows:-

"4 Seadown Parade is a mid-terrace property comprising of a retail shop at ground-floor level together with a self-contained maisonette arranged over the first and second floors.

The ground floor benefits from a good sized retail area of approximately 450 sq ft with a further 250 sq ft of office/storage space to the rear of the building. The first and second floors comprise of self-contained residential accommodation with a good sized lounge/dining room and kitchen on the first floor together with three bedrooms and a bathroom on the second floor. The maisonette is currently let on an Assured Shorthold Tenancy at a rent of £600 pcm.

Externally the property benefits from a rear yard with vehicular access via a service road from Western Avenue.

<u>Marketing</u>

Widespread marketing began in January 2012 after the property was vacated by the previous tenant in November 2011.

The freehold was offered for sale at a Guide Price of £179,950 and the ground floor shop was offered to let at a quoting rent of £6,500 per annum. The marketing is summarised below:

1. *Erection of 'All Enquiries' boards at the property;*
2. *Distribution of detailed particulars across Spratt and Son mailing register and The Estate Agent's Clearing House – distributing to all commercial agents in Central London and the 'BN' and PO' postcodes;*
3. *Regular newspaper advertising through the commercial property features of The Worthing Herald;*
4. *Display of adverts and particulars on the Spratt and Son website, Daltons Business and Estate Agents Clearing House website;*
5. *Display of advert in the Spratt and Son window display at office in Brighton Road, Worthing.*

<u>Interest</u>

During the course of our marketing we have received two offers for the freehold of the property, both at a level of £160,000. The first offer was withdrawn due to finance issues and the second floor, which was subject to a change of use to A5 takeaway and didn't proceed beyond the initial negotiation stages."

Relevant Planning History:

Planning permission was refused in 1994 (S/19/94/TP refers) for the change of use of this shop unit to a hot food takeaway on the grounds the proposed use would be likely to result in noise and other disturbance from customers attracted to the premises (particularly in the evening) and in litter and cooking odours to the detriment of the amenities of nearby residential properties.

Consultations:

West Sussex County Council: The Highway Authority comments as follows:-

"This proposal has been considered by means of a desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC map information. A site visit can be arranged on request.

I refer to your consultation in respect of the above planning application and would provide the following comments.

The site is located within a small array of commercial and retail business sites in this part of Sompting and is surrounded by residential properties. As a result it is likely that some customers to the takeaway will be able to walk to the site to place and collect orders. Whilst we are aware that this proposal would result in a takeaway facility with no specific parking provision, based on our observations regarding car parking in the immediate locality and the previous use of the site as a retail outlet which would have attracted passing trade throughout the day, we do not consider that a takeaway operating mainly during the evening period would materially worsen traffic conditions on this stretch of Bowness Avenue."

Adur and Worthing Councils: The Environmental Health comments that the extraction details appear acceptable but should be the subject of a planning condition and the hours of opening should be consistent with other takeaway outlets in this parade.

Representations:

1 representation has been received from the occupier of 114b Western Road commenting that Seadown Parade is already a very busy parade of shops and is frequently used evenings, weekends and bank holidays, parking is often a problem as it is used by existing businesses, residents as well as customers. Cars are often parked on either side of the drive of 114b and sometimes over it. Residents already suffer from incidents of anti-social behaviour and littering. Another food outlet will worsen the existing situation.

Sompting Parish Council objects to the proposal. There is an existing hot food takeaway in the parade and permission has recently been given for another food outlet. No details of the type of food proposed have been provided. Whilst the Parish Council does not wish to inhibit new businesses or employment, it is considered 2 take-away premises in a small parade is sufficient. The proposed opening times (Midday to 11.00pm) would be unfair to the existing take-away and could be unneighbourly for adjoining properties and those living nearby.

Relevant Planning Policies

Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AS5
National Planning Policy Framework (CLG 2012)

Planning Assessment

Principle

The application property is located within a designated neighbourhood shopping parade subject to saved Adur District Local Plan policy AS5. This policy seeks to retain a predominant Class A1 shopping use and states that changes to non-retail uses will not normally be permitted. It states that proposals for non retail uses will be treated on their merits and will be assessed in relation to the need for the proposed use compared to retail use of the particular premises concerned.

This is carried forward into policy 26 of the emerging Draft Adur Local Plan which states that a predominant shopping use will be retained in designated local shopping parades. Where a proposal would result in a dominance of non retail uses, this will only be acceptable where it can be demonstrated that retailing is no longer a viable use in that unit, particularly where is has remained vacant for a long period and that reasonable attempts have been made to market it for retail purposes.

The application property is the only vacant unit in this parade at present, although it has been vacant since November 2011 and actively marketed

since January 2012 with no success. There is one other hot food takeaway within the Parade at present [Lotus House Chinese Takeaway at No.9] the use of which appears to date from the late 1970s.

Planning permission was granted in October 2012 (AWDM/1185/12 refers) to replace an extant permission in order to extend the time limit for implementation of ADC/0386/09 for the change of use of 6 Seadown Parade to a hot food takeaway (Class A5) with associated extraction and ventilation equipment. However, that permission has not been implemented and the unit remains occupied by 'Tarantula Barn' – for the sale of exotic pets/supplies.

In this case it is considered that reasonable steps have been taken to market the shop unit over a period of more than 1 year without success and this adequately fulfills the requirements of policy 26 (notwithstanding the Draft Adur Local Plan carries very little material weight at present). In terms of saved policy AS5, it is difficult to argue 'need' for a hot food takeway. However, the parade currently includes 2 convenience outlets (Sompting Mini Market at No.5 and Village Convenience Store/Off-Licence at No.8) and clearly functions as a neighbourhood shopping parade offering a range of day-to-day goods and services. It is considered that an additional takeaway could reasonably broaden the existing offer of services would not detract from the retail function or vitality of this parade.

It is also pertinent that Government policy within the NPPF states that local planning authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly.

Visual amenity

There would be no changes to the existing shopfront. It appears that the current application is speculative and a future occupier would need to make a separate planning application to carry out alterations to reflect their brand.

The proposed low-level flue would not be a prominent feature on the rear of the shop premises, being partially obscured in distance views from Western Road by the external steps leading up to the maisonette above (No.4a). A taller, high-level flue is visible to the rear of No.9 serving the Chinese take-away.

The recent permission at No.6 involved ducting for the extraction of cooking odours being installed within the maisonette and a flue terminating through the rear roof slope, but this solution is not considered practical in this instance where the maisonette is occupied.

Residential amenity

External steps at the rear of the terrace lead up to an open common walkway/terrace serving the maisonettes. The submitted drawing shows that the rear wall of the maisonettes containing windows serving habitable rooms is some 5m metres from the vertical plane of the rear wall of the shop unit on which the proposed flue would be fixed. The Environmental Health Officer is satisfied that the proposed low level extraction system is capable of

adequately dealing with cooking odours without causing nuisance to the occupiers of the maisonettes above. However, precise details of the system will need to be agreed once the type of cooking has been identified. This can be dealt with as a condition of planning permission.

The proposed hours of opening would match those agreed under AWDM/1185/12. [It is understood that the Lotus House Chinese Takeaway and Mini Market are also open until 11 pm.] Whilst the comments of the third party concerning the potential for anti-social behaviour are noted, the proposed opening hours are considered reasonable in this mixed residential/commercial environment and consistent with other outlets in this Parade. The premises should be sound insulated to safeguard the occupiers of the maisonette above from internally generated noise. The details should be agreed as a condition of planning permission and this is supported by the EHO.

There is adequate space at the rear of the premises for storage of commercial waste. A condition of planning permission can be imposed requiring provision to be made for a litter receptacle.

Accessibility and parking

There is a parking lay-by in front of the Parade with provision for approximately 15 cars. Posts have been installed within the verge on the south side of the Bowness Avenue, most likely to deter unauthorised parking in the past. Nevertheless, the Highway Authority is satisfied that the proposed use can take place without detriment to highway safety on the basis that peak demand for parking is expected to be later in the day and at a different time to that generated by the majority of other businesses in this Parade.

Recommendation

APPROVE for the reason:-

The proposed hot food takeaway use (Class A5) would enhance the vitality and viability of this neighbourhood shopping parade and would support the local economy by occupying a shop unit that has been vacant for a period of over 1 year. The proposed use can take place without resulting in unacceptable detriment to the amenities of neighbouring properties and without detraction from highway safety. It would consequently not conflict with the saved policies of the Adur District Local Plan (AG1, AS5).

Subject to Conditions:-

1. Standard 3 year time limit
2. Approved plan
3. Hours of opening 12.00-23.00 hrs (Monday to Saturday) and 12.00 to 22.30 hrs (Sunday and Bank/Public Holidays)
4. Agree and implement system for extraction and filtration of cooking odours
5. No plant or equipment operated outside the hours12.00-23.00 hrs (Monday to Saturday) and 12.00 to 22.30 hrs (Sunday and Bank/Public Holidays)

6. Agree and implement sound insulation scheme between premises and maisonette above.
7. Agree and provide receptacle for litter.

Informative

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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

Case Officer: Jo Morin Date: 17 April 2013

Authorised by: Peter Barnett Date: 17 April 2013