Development Control – Delegated Officer Report

Application Number: AWDM/0588/20 **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 (re-submission of AWDM/1815/19)**

Date of site visit: Previously visited 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. This road has limited on-street parking available which could 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 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), together with the provision of an external flue on the north elevation of the building

Relevant Planning History:

SU/142/02/TP Change of use from class A1 shop to class A3 hot food takeaway (No. 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 (No. 386 Brighton Road) **Approved 10.07.2019**

AWDM/1815/19 Change of use from Retail (A1) to Hot Food Takeaway (A5) with extraction flue to north elevation. **Refused 15.01.2020**

Consultations:

Sussex Police:

"The National Planning Policy Framework demonstrates the government's aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. With the level of crime and anti-social behaviour in Adur & Worthing district being average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends and site specific requirements should be considered.

The applicant is proposing a takeaway from 11am to 23:00 hours throughout the week.

From a crime prevention viewpoint my main concerns would be additional footfall to the area and potential associated noise from a takeaway. There is also the concern of possible congregating and associated anti-social behaviour. Given that the proposed application is going to be beneath residential properties there is a need to protect the amenity of residential occupiers especially late into the night against noise and disturbance.

I do note that the design and access statement makes comments to the effect that sound insulation will be in situ. The design and access statement also makes mention to and I quote: 'The applicant would ensure that there would be no gathering at the outside. The premises would be operated to ensure the customers arrive and leave the premises in good manner'.

However, the potential for disturbance seven days a week late into the night is still significant to both those residing above the proposed takeaway and others within the local community.

From a crime prevention perspective if this application is granted thought should be given to the siting of CCTV and an intruder alarm. CCTV will ultimately act as a visual deterrent and assist in offender identification should a crime occur.

Further details regarding CCTV and Data Protection can be found at the Information Commissioners Office website at:

https://icosearch.ico.org.uk/s/search.html?query=CCTV&collection=ico-meta&profile=_default

CCTV guidance for police requirements:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/378449/09-05-UKPolice-Requireme22835.pdf

Thought should also be given to a suitably designed, fit for purpose, monitored intruder alarm system. I therefore refer the applicant to page 49 paragraphs 64.1 and 64.2 Secured by Design Commercial Developments 2015 guide."

WSCC Highways:

"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 five 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 that this proposal would result in a significant intensification of material movements over those already occurring at the site.

Vehicular parking would 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.

The application contains details of kitchen extraction and odour abatement. It remains unclear what the total sound pressure level (noise) will be at the point of discharge (end of the flue) or from the proposed fan. The total noise from the system at full speed must be provided. I recommend this is captured by an appropriate condition attached to any permission granted.

- *The use hereby permitted shall not be carried on unless and until details of a suitable system for the extraction and disposal of cooking odours (including details of the extract fans, filters, fan units and ducting together with method of noise abatement, as well as details of grease traps and extraction hoods) has been submitted to and approved in writing by the Local Planning Authority. The equipment approved under this condition shall be installed before the use hereby permitted commences and thereafter shall be maintained in accordance with the manufacturer's instructions.*

- *No plant or equipment, including the kitchen ventilation and extraction system, shall be operated on the premises except between the hours stipulated in condition ... of this permission*

Turning to sound insulation between the ground and first floor I recommend the following condition be attached to any permission granted.

- *The use hereby permitted shall not commence unless and until an insulation scheme for protecting the first floor residential unit from noise has been submitted to and approved by the local planning authority. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB) for all floors. Following approval and implementation of the scheme, a test shall be undertaken to demonstrate that the attenuation measures carried out as part of the approved scheme are effective and achieve the specified criteria. All works, which form part of the approved scheme, shall be completed before the use commences.*

Finally the hours of use should be restricted to those contained within the application. Furthermore deliveries to and collections from the commercial unit shall only be made between the hours of 07.00 and 20.00 Monday to Saturday and 09.00 to 18.00 on Sundays.

Reasons: To safeguard the residential amenity of the area in accordance with the Adur Local Plan."

Planning Policy:

"It appears they have done approx. 9 months of marketing. Under normal circumstances I would expect to see a longer period. However given the current situation with Covid-19 and the adverse impact it is having on the economy, I don't see any value in requiring any further marketing activity at this point."

Representations: Letter of objection from 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 night which could cause residents to keep windows and doors closed
- Noise of wheelie bins and delivery trucks, which will cause more rubbish and smells and broken paving slabs to an already overcrowded and broken pathway
- Takeaways should be on the high street and not 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. The use is acceptable in principle subject to policy requirement and the effect of the use on neighbouring properties and the character of the locality.

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. If permitted, this application would result in A1 uses being in a minority, and a run of three A3/A5 uses.

Since the previous refused application, the applicant has submitted further marketing information, which advise that it has was marketed between march and December 2019 but there were no formal viewings and no offers made. Planning Policy have reviewed the case and are of the view that usually a longer period than that identified by the applicant would often be required, but given the current situation with Covid-19 and the adverse impact it is having on the economy, it is considered that there would not be any value in requiring any further marketing activity at this point.

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, although because of the main road, although often busy, allows parking to the front of the properties within the terrace. A specific car parking area exists close to the application, but this is a private parking area, unavailable for short term customer parking. However, there are town centre car parks within a reasonable walking distance.

It is noted that WSCC Highway do not raise a highway objection to the parking on the street despite it being limited in the vicinity. They note that the site is sustainably located, and is 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.

They conclude that the proposal would not have an unacceptable impact on highway safety or result in severe cumulative impacts on the operation of the highway network, therefore it is not contrary to the NPPF (paragraph 109), and that there are no transport grounds to resist the proposal.

Residential amenity

The use is described as being A5 takeaway although no end user has been identified. A new flue is proposed and Environmental Health have viewed the documents submitted relating to the flue and the use and in their consultation response note that more information is required which could be dealt with by conditions on any permission granted, and state the required information.

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

APPROVE subject to the following conditions

1. Approved plans
2. Standard time limit
3. The use hereby permitted shall not be carried on unless and until details of a suitable system for the extraction and disposal of cooking odours (including details of the extract fans, filters, fan units and ducting together with method of noise abatement, as well as details of grease traps and extraction hoods) has been submitted to and approved in writing by the Local Planning Authority. The equipment

approved under this condition shall be installed before the use hereby permitted commences and thereafter shall be maintained in accordance with the manufacturer's instructions.

4. No plant or equipment, including the kitchen ventilation and extraction system, shall be operated on the premises except between the hours stipulated in condition 6 of this permission
5. The use hereby permitted shall not commence unless and until an insulation scheme for protecting the first floor residential unit from noise has been submitted to and approved by the local planning authority. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB) for all floors. Following approval and implementation of the scheme, a test shall be undertaken to demonstrate that the attenuation measures carried out as part of the approved scheme are effective and achieve the specified criteria. All works, which form part of the approved scheme, shall be completed before the use commences.
6. The premises shall not be open for trade or business other than between the hours of 11am and 11pm on any day and all activity associated with the takeaway shall cease at the premises within half an hour of this closing time.
7. Deliveries to and collections from the commercial unit shall only be made between the hours of 07.00 and 20.00 Monday to Saturday and 09.00 to 18.00 on Sundays.
8. The use hereby approved shall not commence until details of facilities for storing refuse and waste, including for waste that can be recycled, have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Informative:

1. Approved without amendment
2. From a crime prevention perspective, Sussex Police have advised that thought should be given to the siting of CCTV and an intruder alarm. CCTV will ultimately act as a visual deterrent and assist in offender identification should a crime occur.

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

Case Officer: Eve Hearsey Date: 17 July 2020

Authorised by: Peter Barnett Date: 17 July 2020